

SEVENTY-FIFTH DAY
(Saturday, May 27, 1989)

The Senate met at 9:00 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brooks, Brown, Caperton, Carriker, Dickson, Edwards, Glasgow, Green, Haley, Harris, Henderson, Johnson, Krier, Leedom, Lyon, McFarland, Montford, Parker, Parmer, Ratliff, Santiesteban, Sims, Tejada, Truan, Uribe, Washington, Whitmire, Zaffirini.

A quorum was announced present.

Robert Mays of Senator Sims' staff offered the invocation as follows:

Our Heavenly Father, we thank You for our many blessings, thirty-two of whom are present on this Senate floor. Thank You for Your oversight and guidance. We ask that You watch over us and the decisions made in this grand and noble place. Give these men and women strength to stand alone and to stand together with You, for all of us. Let us know, too, that our wisdom comes from You and that You will show us the light and the way to achieve that which is fair and just for all Your children. Help these Thy children to learn from their mistakes, but not let the past hinder the future.

Thank You for this work and let us be peaceful in the knowledge that our true compensation will be our time and place prepared with You.

Let us know, also, that there is completeness in the work done here and satisfaction for a job done well and well done.

Thank You, O Lord. In Christ's name we pray. Amen.

On motion of Senator Brooks and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

CO-AUTHOR OF SENATE RESOLUTION 746

On motion of Senator Johnson and by unanimous consent, Senator Washington will be shown as Co-author of S.R. 746.

CO-AUTHOR OF SENATE RESOLUTION 761

On motion of Senator Johnson and by unanimous consent, Senator Edwards will be shown as Co-author of S.R. 761.

CO-AUTHOR OF SENATE RESOLUTION 693

On motion of Senator Johnson and by unanimous consent, Senator Edwards will be shown as Co-author of S.R. 693.

SENATE BILL 1757 WITH HOUSE AMENDMENT

Senator Edwards called S.B. 1757 from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Committee Amendment - Laney

Amend S.B. 1757 by striking all below the enacting clause and substituting in lieu thereof the following:

SECTION 1. Section 16, Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), is amended by amending Subsection (h) and by adding Subsection (i) to read as follows:

(h) The commission shall inquire into the management of the business of all public utilities under its jurisdiction, shall keep itself informed as to the manner and method in which the management and business is conducted, and shall obtain from any public utility all necessary information to enable the commission to perform management audits. The commission may audit each utility under the jurisdiction of the commission as frequently as needed, but shall audit each utility at least once every 10 years. The requirement of an audit at least once every 10 years does not apply to a telephone cooperative corporation organized under the Telephone Cooperative Act (Article 1528c, Vernon's Texas Civil Statutes), or to a local exchange company that has not more than 5,000 access lines in service in this state. Six months after any audit, the utility shall report to the commission on the status of the implementation of the recommendations of the audit and shall file subsequent reports at such times as the commission deems appropriate.

(i) The commission may contract with one or more consultants to conduct all or part of a management audit of a utility under the commission's jurisdiction if the commission determines that the services of a consultant are necessary. The commission shall set the reasonable costs of the consultant's services and specify that amount in the contract. The commission may agree to amend the contract to change that amount to an amount the commission later determines is reasonable and necessary. A utility for which a management audit is conducted by a consultant under this subsection shall pay the costs of the services of each consultant in the amount and manner determined by the commission to be reasonable.

SECTION 2. Section 41, Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 41. The components of invested capital and net income shall be determined according to the following rules:

(a) Invested Capital. Utility rates shall be based upon the original cost of property used by and useful to the public utility in providing service including construction work in progress at cost as recorded on the books of the utility. The inclusion of construction work in progress is an exceptional form of rate relief to be granted only upon the demonstration by the utility that such inclusion is necessary to the financial integrity of the utility. Construction work in progress shall not be included in the rate base for major projects under construction to the extent that such projects have been inefficiently or imprudently planned or managed. Original cost shall be the actual money cost, or the actual money value of any consideration paid other than money, of the property at the time it shall have been dedicated to public use, whether by the utility which is the present owner or by a predecessor, less depreciation.

(b) Separations and Allocations. Costs of facilities, revenues, expenses, taxes, and reserves shall be separated or allocated as prescribed by the regulatory authority.

(c) Net Income. By "net income" is meant the total revenues of the public utility less all reasonable and necessary expenses as determined by the regulatory authority. The regulatory authority shall determine expenses and revenues in a manner consistent with the following:

(1) Transactions with Affiliated Interests. Payment to affiliated interests for costs of any services, or any property, right or thing, or for interest expense shall not be allowed either as capital cost or as expense except to the extent that the regulatory authority shall find such payment to be reasonable and necessary for each item or class of items as determined by the commission. Any such finding shall include specific findings of the reasonableness and necessity of each

item or class of items allowed and a finding that the price to the utility is no higher than prices charged by the supplying affiliate to its other affiliates or divisions for the same item or class of items, or to unaffiliated persons or corporations. The price paid by gas utilities to affiliated interests for natural gas from Outer Continental Shelf lands shall be subject to a rebuttable presumption that such price is reasonable if the price paid does not exceed the price permitted by federal regulation if such gas is regulated by any federal agency or if not regulated by a federal agency does not exceed the price paid by nonaffiliated parties for natural gas from Outer Continental Shelf lands. The burden of establishing that such a price paid is not reasonable shall be on any party challenging the reasonableness of such price.

(2) **Income Taxes.** If the public utility is a member of an affiliated group that is eligible to file a consolidated income tax return, and if it is advantageous to the public utility to do so, income taxes shall be computed as though a consolidated return had been so filed and the utility had realized its fair share of the savings resulting from the consolidated return, unless it is shown to the satisfaction of the regulatory authority that it was reasonable to choose not to consolidate returns. The amounts of income taxes saved by a consolidated group of which a public utility is a member by reason of the elimination in the consolidated return of the intercompany profit on purchases by the public utility from an affiliate shall be applied to reduce the cost of the property or services so purchased. The investment tax credit allowed against federal income taxes, to the extent retained by the utility, shall be applied as a reduction in the rate based contribution of the assets to which such credit applies, to the extent and at such rate as allowed by the Internal Revenue Code.

(3) **Expenses Disallowed.** The regulatory authority shall not consider for ratemaking purposes the following expenses:

(A) legislative advocacy expenses, whether made directly or indirectly, including but not limited to legislative advocacy expenses included in trade association dues;

(B) payments, except those made under an insurance or risk-sharing arrangement executed before the date of loss, made to cover costs of an accident, equipment failure, or negligence at a utility facility owned by a person or governmental body not selling power inside the State of Texas;

(C) costs of processing a refund or credit under Subsection (e) of Section 43 of this Act; or

(D) any expenditure found by the regulatory authority to be unreasonable, unnecessary, or not in the public interest, including but not limited to executive salaries, advertising expenses, legal expenses, and civil penalties or fines.

(4) **Expenses Allowed.** The regulatory authority shall allow as a reasonable and necessary operating expense a payment made by a public utility for consultant services for a management audit in accordance with Section 16(i) of this Act.

The regulatory authority may promulgate reasonable rules and regulations with respect to the allowance or disallowance of any expenses for ratemaking purposes.

SECTION 3. This Act takes effect September 1, 1989.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

Senator Edwards moved that the Senate do not concur in the House amendment, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on **S.B. 1757** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Edwards, Chairman; Parmer, Caperton, Truan and Henderson.

HOUSE BILL 141 ON THIRD READING

Senator Brooks moved that the regular order of business be suspended and that **H.B. 141** be placed on its third reading and final passage.

H.B. 141, Relating to the application of certain gambling offenses to ocean-going vessels and to the regulation and inspection of those vessels.

The motion prevailed by the following vote: Yeas 16, Nays 8.

Yeas: Armbrister, Barrientos, Brooks, Brown, Caperton, Carriker, Dickson, Glasgow, Harris, Henderson, Krier, Montford, Parker, Sims, Truan, Uribe.

Nays: Bivins, Edwards, Green, Haley, Leedom, Ratliff, Tejeda, Zaffirini.

Absent: Johnson, Lyon, McFarland, Parmer, Santiesteban, Washington, Whitmire.

The bill was read third time and was passed viva voce vote.

RECORD OF VOTES

Senators Montford, Green, Parker, Zaffirini, Edwards, Haley, Leedom, Ratliff, Tejeda, Brown, Bivins, Dickson and Whitmire asked to be recorded as voting "Nay" on the final passage of the bill.

(Senator Truan in Chair)

HONORARY PAGE PRESENTED

Senator Sims was recognized to introduce Christopher Terrazas, serving today as an Honorary Page.

The Senate expressed appreciation to Christopher for his assistance.

SENATE BILL 895 WITH HOUSE AMENDMENT

Senator Harris called **S.B. 895** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Committee Amendment - B. Hunter

Amend **S.B. 895** by striking all below the enacting clause and substituting in lieu thereof the following:

SECTION 1. Chapter 70, Education Code, is amended by adding Section 70.08 to read as follows:

Sec. 70.08. UNDERGRADUATE ADMISSIONS. (a) The Board of Regents of The University of Texas System may provide for the admission and enrollment of not more than 2,000 entering freshmen students at The University of Texas at Dallas.

(b) The board may provide for the admission of undergraduate transfer students with less than 54 semester hours of college credit at The University of Texas

at Dallas as provided by this section. The board shall control the admission and enrollment of entering freshmen and of undergraduate transfer students with less than 54 semester hours of college credit in a manner that ensures that the enrollment of students classified as freshmen and sophomores at the institution does not exceed 5,000, except as provided by Subsection (c) of this section.

(c) For each academic year, in addition to the enrollments targeted by the academic plan for that academic year, The University of Texas at Dallas may admit an additional number of students equal to no more than four per cent of the targeted number if such students are classified as sophomores, have earned more than 29 but less than 54 semester hours of college credit at a community college in the Dallas or the Collin County Community College District, and otherwise meet the minimum criteria for transfer admission to The University of Texas at Dallas. This subsection does not limit or otherwise affect the enrollment of students at The University of Texas at Dallas who have earned semester credit hours at a community college in the Dallas or the Collin County Community College District and who otherwise compete successfully for admission and enrollment at The University of Texas at Dallas.

(d) It is the intent of the Legislature that minority students be full participants in the educational opportunities created by the admission of lower-division undergraduate students to The University of Texas at Dallas primarily in programs leading to degrees in natural sciences, mathematics, and engineering. Therefore, until such time as the minority student populations at The University of Texas at Dallas are fully representative of the state's minority population, the board shall cause to be set aside for each academic year from among the enrollments targeted by the academic plan for that academic year a number of enrollments equal to at least five percent of the targeted number, such reserved enrollments to be open exclusively to minority students.

(e) The board shall develop policies for undergraduate admission to The University of Texas at Dallas that emphasize the admission and enrollment of lower-division students who intend to enroll in academic programs leading to degrees in natural sciences, mathematics, or engineering. Nothing in this Act shall prohibit the senior institutions of higher education in the North Texas Region from creating and developing undergraduated and graduate programs in the areas of natural sciences, mathematics, and engineering.

(f) At a minimum, in addition to other qualitative criteria that the board may establish, the board shall provide that the admission criteria for entering freshmen and for transfer students with less than 54 semester hours of college credit be no less stringent than the criteria for admission to The University of Texas at Austin for those students.

(g) The board shall continue to provide for the admission at The University of Texas at Dallas of undergraduate transfer students with 54 or more semester hours of college credit. The admission criteria effective on March 1, 1989, for those students may continue in effect but may be amended from time to time by the board. In amending those criteria, the board shall consider that one of the primary missions of The University of Texas at Dallas is to serve those students who have received freshman-level and sophomore-level undergraduate instruction at community colleges located in the surrounding area.

(h) This section does not affect the criteria for admission to graduate programs at The University of Texas at Dallas.

(i) In this section, the number of students is determined by head count.

SECTION 2. (a) The University of Texas at Dallas may admit freshman and sophomore students beginning with the Summer Sessions, 1990. Notwithstanding Subsections (a) and (b), Section 70.08, Education Code, for the period beginning with the Summer Sessions, 1990, and for the academic year beginning with the Fall

Semester, 1991, the board shall cause the academic plan for The University of Texas at Dallas to restrict the total enrollment of lower-division students to no more than 1040 for each such period.

(b) It is the intent of the legislature that any general revenue funds appropriated to The University of Texas at Dallas for costs related to the implementation of this Act not exceed \$500,000 for each year of the fiscal biennium beginning September 1, 1989.

(c) For the fiscal biennium that follows the fiscal biennium beginning September 1, 1989, in addition to the funding that is provided by the regular general academic institution formulas, The University of Texas at Dallas is entitled to the incremental funding for enrollments in junior-level and senior-level courses that is provided by the upper-level formulas to those institutions that enroll only junior-level and senior-level undergraduate students, and the Texas Higher Education Coordinating Board shall take that entitlement into account in preparing its formula recommendation under Section 61.059, Education Code.

SECTION 3. (a) Section 70.06, Education Code, is repealed effective May 15, 1990.

(b) This Act takes effect September 1, 1989, except that Section 1 of this Act takes effect May 16, 1990.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

Senator Harris moved that the Senate do not concur in the House amendment, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The Presiding Officer asked if there were any motions to instruct the Conference Committee on S.B. 895 before appointment.

Senator Caperton moved to instruct the Conference Committee on S.B. 895 that the conversion of an upper level college to a four-year institution should first be considered by the Coordinating Board.

The motion to instruct was lost by the following vote: Yeas 10, Nays 18.

Yeas: Bivins, Caperton, Carriker, Glasgow, Henderson, McFarland, Parker, Ratliff, Sims, Truan.

Nays: Armbrister, Barrientos, Brooks, Brown, Dickson, Edwards, Green, Haley, Harris, Johnson, Krier, Leedom, Montford, Parmer, Tejeda, Uribe, Whitmire, Zaffirini.

Absent: Lyon, Santiesteban, Washington.

(President in Chair)

Senator McFarland raised the point of order that the bill was not eligible for consideration since the House amendment had not been on the Members' desks for 24 hours.

The President overruled the point of order, stating that since the motion was to not concur in the House amendment, the provisions of Senate Rule 7.22(b) did not apply.

Question recurring on the motion to not concur in the House amendment to S.B. 895, the motion prevailed by the following vote: Yeas 25, Nays 3.

Yeas: Armbrister, Barrientos, Bivins, Brooks, Brown, Caperton, Carriker, Dickson, Edwards, Glasgow, Green, Haley, Harris, Henderson, Johnson, Leedom, McFarland, Montford, Parker, Parmer, Tejada, Truan, Uribe, Whitmire, Zaffirini.

Nays: Krier, Ratliff, Sims.

Absent: Lyon, Santiesteban, Washington.

**COMMITTEE SUBSTITUTE
HOUSE BILL 3072 ON SECOND READING**

On motion of Senator Dickson and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 3072, Relating to the creation, jurisdiction, and operation of the Ballinger Memorial Hospital District and to the expiration of the Act authorizing its creation.

The bill was read second time and was passed to third reading viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE BILL 3072 ON THIRD READING**

Senator Dickson moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **C.S.H.B. 3072** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 427 ON SECOND READING

On motion of Senator Brooks and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 427, Relating to airport police officers commissioned as peace officers.

The bill was read second time.

Senator Brooks offered the following amendment to the bill:

Amend **H.B. 427** on page 2 by adding new Subsections (12) and (13) as follows and by renumbering the subsequent sections accordingly:

(12) airport police officers commissioned by a city with a population of more than 900,000, according to the most recent federal census, that operates an airport that serves commercial air carriers;

(13) airport security personnel commissioned as peace officers by the governing body of any political subdivision of this state, other than a city described by subdivision (12), that operates an airport that serves commercial air carriers [served by a Civil Aeronautics Board-certificated air carrier];

The amendment was read and was adopted viva voce vote.

On motion of Senator Brooks and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading viva voce vote.

HOUSE BILL 427 ON THIRD READING

Senator Brooks moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **H.B. 427** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

CONFERENCE COMMITTEE ON SENATE BILL 895 APPOINTED

The President announced the appointment of the following conferees on the part of the Senate on **S.B. 895**: Senators Harris, Chairman; Montford, Uribe, Johnson and Brooks.

CONFERENCE COMMITTEE ON HOUSE BILL 2721

Senator Sims called from the President's table for consideration at this time the request of the House for a Conference Committee to adjust the differences between the two Houses on **H.B. 2721** and moved that the request be granted.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on **H.B. 2721** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Sims, Chairman; Caperton, Ratliff, McFarland and Leedom.

COMMITTEE SUBSTITUTE HOUSE BILL 3187 ON THIRD READING

On motion of Senator Barrientos and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its third reading and final passage:

C.S.H.B. 3187, Relating to the provision of municipal services to newly annexed areas; procedures for annexing and disannexing territory previously annexed for limited purposes and validation of annexations and disannexations by a municipality authorized to annex for limited purposes; designation of planned unit developments in the extraterritorial jurisdiction of certain municipalities and the incorporation of new municipalities within such extraterritorial jurisdiction; and the extension of certain ordinances to areas of extraterritorial jurisdiction.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE
HOUSE BILL 3160 ON SECOND READING**

On motion of Senator Green and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 3160, Relating to the creation, administration, powers, duties, operation, financing and dissolution of municipal management districts and the power of certain entities to contract with the district.

The bill was read second time.

Senator Green offered the following amendment to the bill:

Floor Amendment No. 1

Amend **C.S.H.B. 3160** as follows:

On page 15, lines 15 through 18, delete subsection (b) language and insert in lieu thereof the following:

(b) Elections shall be called and held as provided by the appropriate provisions of Chapter 54, Water Code.

The amendment was read and was adopted viva voce vote.

Senator Green offered the following amendment to the bill:

Floor Amendment No. 2

Amend **C.S.H.B. 3160** as follows:

Amend **C.S.H.B. 3160** by striking SECTIONS 21 and 22 and renumbering the remaining Sections accordingly.

Amend **C.S.H.B. 3160** as follows:

On page 3, line 19, change, '5 miles' to 3.5 miles.

On page 15, line 53 strike the words, 'or charter provisions'

The amendment was read and was adopted viva voce vote.

On motion of Senator Green and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE BILL 3160 ON THIRD READING**

Senator Green moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **C.S.H.B. 3160** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 2728 ON SECOND READING

On motion of Senator Leedom and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 2728, Relating to the establishment of a program of internal auditing by certain State agencies and institutions.

The bill was read second time.

Senator Leedom offered the following amendment to the bill:

Amend SECTIONS 2, 5, 6, and 9 of **H.B. 2728** to read as follows:

SECTION 2. PURPOSE. The purpose of this Act is to establish guidelines for a program of internal auditing to assist agency administrators by furnishing independent analyses, appraisals, and recommendations concerning the adequacy and effectiveness of an agency's systems of internal control policies and procedures, and the quality of performance in carrying out assigned responsibilities.

SECTION 5. APPOINTMENT OF INTERNAL AUDIT STAFF. The governing board of an agency or its designee, or the administrator of an agency without a governing board, shall appoint an internal auditor, who shall be either a certified public accountant or a certified internal auditor and who shall have at least three years of auditing experience. The agency shall employ such additional professional and support staff as the agency administrator determines are necessary to implement an effective program of internal auditing.

SECTION 6. DUTIES OF INTERNAL AUDITOR. The internal auditor shall:

(1) report directly to the agency's governing board or commission with access to the agency administrator;

(2) develop an annual audit plan, which shall be approved by the governing board of the agency or its designee, or by the administrator of an agency without a governing board;

(3) conduct audits as specified in the audit plan with documented deviations;

(4) prepare audit reports, which shall be reviewed by the agency administrator and the agency's governing board or commission;

(5) conduct quality assurance reviews in accordance with professional standards and periodically take part in a comprehensive external peer review; and

(6) be free of all operational and management responsibilities which would impair the ability to make independent reviews of all aspects of the agency's operations.

SECTION 9. PROFESSIONAL DEVELOPMENT. The state auditor shall make available and coordinate a program of training and technical assistance to ensure that agency internal auditors have access to current information concerning internal audit techniques, policies and procedures, and to provide general technical and audit assistance to agency internal auditors upon request. The state auditor shall be entitled to receive reimbursement for costs associated with providing such services under the terms of interagency cooperation contracts negotiated between the state auditor and each agency. Such costs shall not exceed those allowed by the general appropriations act.

The amendment was read and was adopted viva voce vote.

On motion of Senator Leedom and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading viva voce vote.

HOUSE BILL 2728 ON THIRD READING

Senator Leedom moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that H.B. 2728 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed viva voce vote.

HOUSE BILL 2043 ON SECOND READING

On motion of Senator Carriker and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 2043, Relating to the property eligible for ad valorem tax abatement in a reinvestment zone.

The bill was read second time and was passed to third reading viva voce vote.

HOUSE BILL 2043 ON THIRD READING

Senator Carriker moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that H.B. 2043 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 2629 ON SECOND READING

On motion of Senator Armbrister and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 2629, Relating to the acquisition of the Texas Employment Commission facilities by the State Purchasing and General Services Commission and to the lease of vending facility space in certain state-owned buildings under the jurisdiction of the purchasing commission.

The bill was read second time.

Senator Armbrister offered the following committee amendment to the bill:

Amend **H.B. 2629** by striking the language in Subdivision (b) and (c) of Sec. 27 of SECTION 1 and by substituting the following in lieu thereof:

(b) If the [The] State Purchasing General Services Commission takes possession of the [shall, under an agreement with the Texas Employment Commission and subject to the availability of funds authorized by this Act, purchase] office buildings and parking facilities of the Texas Employment Commission located in or near the Capitol Complex[- If the offices are acquired], the State Purchasing and General Services Commission may, from funds made available by the authority or from other available funds, renovate the facilities as necessary for occupancy by [other state agencies], the legislature or its legislative agencies. Before renovating the facilities or making the facilities available for occupancy, the purchasing commission shall offer the space to the legislature and its legislative agencies for their

use and occupancy. For that purpose, the purchasing commission shall notify the lieutenant governor and the speaker of the house in writing, who may claim the property for the use and occupancy of the legislature and legislative agencies by delivering a written notice signed by both officers to the executive director of the commission. The notice must be delivered to the executive director before the 120th day after the date on which those officers receive notice of the availability of the property.

(c) If the lieutenant governor and the speaker deliver a written notice, signed by each, to the executive director of the purchasing commission stating that the employment commission facilities in or near the Capitol Complex are necessary for legislative use and vending facilities, the purchasing commission shall take possession of the property and the employment commission shall vacate this property in accordance with this subsection. The property must be made available for use and occupancy of the legislature and legislative agencies not later than the second anniversary of the date on which the executive director of the commission receives the notice from the lieutenant governor and speaker. From funds made available by the authority or from funds appropriated for that purpose, the purchasing commission with the concurrence of the employment commission shall purchase or construct adequate, alternative office and parking space in the city of Austin for the employment commission and shall obtain the necessary concurrence that may be required by the United States government. [In negotiating the price for the Texas Employment Commission facilities, the State Purchasing and General Services Commission shall consider the cost to the Texas Employment Commission of alternative space. The State Purchasing and General Services Commission shall also consider the price in the context of the reasonable rates that might otherwise be paid by prospective occupying state agencies for rent in comparable space. The State Purchasing and General Services Commission may not agree to a price greater than one and one-half times the estimated amount in Section 24 of this Act.]

The committee amendment was read and was adopted viva voce vote.

On motion of Senator Armbrister and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading viva voce vote.

HOUSE BILL 2629 ON THIRD READING

Senator Armbrister moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that H.B. 2629 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

COMMITTEE SUBSTITUTE

HOUSE BILL 2060 ON SECOND READING

On motion of Senator Armbrister and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 2060, Relating to operation on public roads of certain motor vehicles and to deposits to the county road and bridge fund; providing penalties.

The bill was read second time and was passed to third reading viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2060 ON THIRD READING**

Senator Armbrister moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **C.S.H.B. 2060** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed viva voce vote.

HOUSE BILL 2286 ON SECOND READING

On motion of Senator Edwards and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 2286, Relating to a state small business innovation research program involving grants of state funds.

The bill was read second time.

Senator Edwards offered the following committee amendment to the bill:

Amend **H.B. 2286** by adding a new Section 481.310 to read as follows:

"Section 481.210. FUNDING. In addition to other funds provided for purposes of this subchapter, the department may utilize royalties and equity interests derived under the provisions of Subchapter Q of the Government Code to carry out the program established under this section."

The committee amendment was read and was adopted viva voce vote.

On motion of Senator Edwards and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading viva voce vote.

HOUSE BILL 2286 ON THIRD READING

Senator Edwards moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **H.B. 2286** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed viva voce vote.

(Senator Dickson in Chair)

**MOTION TO PLACE COMMITTEE SUBSTITUTE
HOUSE BILL 504 ON SECOND READING**

Senator Brown moved to suspend the regular order of business to take up for consideration at this time:

C.S.H.B. 504, Relating to the sale of certain mixtures of gasoline and alcohol; providing penalties.

POINT OF ORDER

Senator Carriker raised a point of order that the bill was reported from committee yesterday and had not met the provisions of Senate Rule 7.13.

On motion of Senator Brown and by unanimous consent, the motion to suspend the regular order of business was withdrawn.

HOUSE JOINT RESOLUTION 101 ON SECOND READING

On motion of Senator McFarland and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.J.R. 101, Proposing a constitutional amendment authorizing the legislature to organize and combine various state agencies that perform criminal justice functions.

The resolution was read second time and was passed to third reading viva voce vote.

HOUSE JOINT RESOLUTION 101 ON THIRD READING

Senator McFarland moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **H.J.R. 101** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 2.

Yeas: Armbrister, Barrientos, Bivins, Brooks, Brown, Caperton, Carriker, Dickson, Edwards, Glasgow, Green, Haley, Harris, Henderson, Krier, Leedom, Lyon, McFarland, Montford, Parker, Parmer, Ratliff, Sims, Tejeda, Truan, Uribe, Whitmire, Zaffirini.

Nays: Johnson, Washington.

Absent: Santiesteban.

The resolution was read third time and was passed by the following vote: Yeas 29, Nays 1.

Nays: Johnson.

Absent: Santiesteban.

COMMITTEE SUBSTITUTE**HOUSE BILL 2974 ON SECOND READING**

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 2974, Relating to establishing a center for border economic and enterprise development at Pan American University, Laredo State University, and The University of Texas at El Paso.

The bill was read second time and was passed to third reading viva voce vote.

(Senator McFarland in Chair)

**COMMITTEE SUBSTITUTE
HOUSE BILL 2974 ON THIRD READING**

Senator Zaffirini moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that C.S.H.B. 2974 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE BILL 669 ON SECOND READING**

On motion of Senator Dickson and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 669, Relating to the authority of the sheriff of a county to operate a county jail commissary and the disposition of commissary proceeds.

The bill was read second time and was passed to third reading viva voce vote.

RECORD OF VOTE

Senator Glasgow asked to be recorded as voting "Nay" on the passage of the bill to third reading.

**COMMITTEE SUBSTITUTE
HOUSE BILL 669 ON THIRD READING**

Senator Dickson moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that C.S.H.B. 669 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 2.

Yeas: Armbrister, Barrientos, Bivins, Brooks, Brown, Caperton, Carriker, Dickson, Edwards, Green, Haley, Harris, Henderson, Johnson, Krier, Leedom, Lyon, McFarland, Montford, Parker, Parmer, Ratliff, Santiesteban, Sims, Tejada, Truan, Uribe, Whitmire, Zaffirini.

Nays: Glasgow, Washington.

The bill was read third time and was passed viva voce vote.

RECORD OF VOTE

Senator Glasgow asked to be recorded as voting "Nay" on the final passage of the bill.

HOUSE BILL 1446 ON THIRD READING

On motion of Senator Washington and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its third reading and final passage:

H.B. 1446, Relating to the creation, administration, powers, duties, operation, financing, and dissolution of the Houston Downtown Management District and the power of certain entities to contract with the district.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 976 ON SECOND READING

On motion of Senator Washington and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 976, Relating to duties and liabilities of a real estate broker or real estate salesman concerning an inquiry or disclosure relating to whether the previous occupant of real property had, may have had, has, or may have certain communicable diseases.

The bill was read second time and was passed to third reading viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2608 ON SECOND READING**

On motion of Senator Washington and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 2608, Relating to provisions for and regulation of life and health insurance and health care benefits coverage including coverage for acquired immune deficiency syndrome and human immunodeficiency virus infection; providing penalties.

The bill was read second time.

Senator Edwards offered the following amendment to the bill:

Amend **C.S.H.B. 2608** to insert the following language after Section _____, and renumber the succeeding Sections appropriately:

SECTION _____. Subsection (a), Section 1, Article 3.74, Insurance Code, is amended to read as follows:

(a) Scope of Article. Notwithstanding Section 2(b)(5) of Article 1.14-1 of this code, this [This] article applies to and governs group and individual medicare supplement policies delivered or issued for delivery in this state and certificates issued under group medicare supplement policies that have been delivered or issued for delivery in this state if those policies or certificates are issued by capital stock companies, including but not limited to life, health and accident, and general casualty companies; mutual life insurance companies; mutual assessment life insurance companies, including but not limited to statewide mutual assessment corporations, local mutual aids, and burial associations; mutual and mutual assessment associations of all kinds and types, including but not limited to associations subject to Article 14.17 of this code; mutual insurance companies other than life; mutual or natural premium life or casualty insurance companies; fraternal benefit societies; Lloyds; reciprocal or inter-insurance exchanges; nonprofit hospital, medical, or dental service corporations, including but not limited to companies subject to Chapter 20 of this code; stipulated premium insurance companies; or any other insurer which by law is required to be licensed by the State Board of Insurance; and health maintenance organizations subject to the Texas Health Maintenance Organization Act, as amended (Chapter 20A, Vernon's Texas Insurance Code); [provided; however, this article does not apply to any insurance coverage delivered or issued for delivery in this state pursuant to a group policy delivered or issued for delivery outside of this state;] provided [further;] that this article shall not be construed to enlarge the powers of any of the enumerated companies.

SECTION _____. Subdivisions (2) and (3), Subsection (b), Section 1, Article 3.74, Insurance Code, are amended to read as follows:

(2) "Certificate" means, for the purposes of this article, any certificate issued under a group medicare supplement policy, which certificate [policy] has been delivered or issued for delivery in this state regardless of the place where the policy was delivered or issued for delivery.

(3) "Medicare supplement policy" means a group or individual policy of accident and sickness insurance or a subscriber contract of a hospital service corporation subject to Chapter 20 of this code or evidence of coverage issued by a health maintenance organization subject to the Texas Health Maintenance Organization Act, as amended (Chapter 20A, Vernon's Texas Insurance Code), which policy, subscriber contract, or evidence of coverage is advertised, marketed, or designed primarily as a supplement to reimbursements under medicare for the hospital, medical, or surgical expenses of persons eligible for medicare; provided that the State Board of Insurance may by rule modify the definition of medicare supplement policy to the extent necessary for the State of Texas to qualify as a state with an approved regulatory program under the provisions of Public Law 96-265, Section 507(a), 94 Stat. 476 (42 U.S.C.A. Section 1395ss (1980)). Such term does not include:

(A) a policy, contract, subscriber contract, or evidence of coverage of one or more employers or labor organizations, or of the trustees of a fund established by one or more employers or labor organizations, or combination thereof, for employees or former employees, or combination thereof, or for members or former members, or combination thereof, of the labor organizations; or

(B) ~~[a policy, contract, subscriber contract, or evidence of coverage of any professional, trade, or occupational association for its members or former or retired members, or combination thereof, if such association:~~

~~[(i) is composed of individuals all of whom are actively engaged in the same profession, trade, or occupation;~~
~~[(ii) has been maintained in good faith for purposes other than obtaining insurance; and~~

~~[(iii) has been in existence for at least two years prior to the date of its initial offering of such policy or plan to its members;~~

~~[(C)] a policy or health care benefit plan including;~~
~~contract, subscriber contract, or evidence of coverage issued pursuant to a conversion privilege under] a policy or contract of group insurance or group contract of a hospital service corporation subject to Chapter 20 of this code or group evidence of coverage issued by a health maintenance organization subject to the Texas Health Maintenance Organization Act[; as amended] (Chapter 20A, Vernon's Texas Insurance Code), when such [group] policy or plan is not marketed or held to be a medicare supplement policy or benefit plan[; subscriber contract, or evidence of coverage includes provisions which are inconsistent with the requirements of this article].~~

SECTION ____ Sections 2, 3, 4, and 6, Article 3.74, Insurance Code, are amended to read as follows:

Sec. 2. STANDARDS FOR MEDICARE SUPPLEMENT POLICIES [CONTRACTUAL PROVISIONS]. (a) No medicare supplement insurance policy or certificate in force in this state shall contain benefits that duplicate benefits provided by medicare.

(b) The State Board of Insurance shall make, promulgate, and establish three standard medicare supplement policies that shall be used in this state for writing medicare supplement insurance. The forms are a basic coverage form, an expanded coverage form, and a comprehensive coverage form. An insurer or other entity listed in Section 1(a) of this article may deliver or issue for delivery in this state a medicare

supplement policy only if that insurer or other entity uses for that policy one of the forms promulgated by the State Board of Insurance under this section.

(c) The basic coverage policy form shall include coverage for the copayment of Medicare Part A eligible expenses incurred per calendar year and the reasonable cost of the first three pints of blood (not replaced as defined by federal regulations) and coverage for the copayment amount of medicare eligible expenses excluding out-patient prescription drugs under Medicare Part B regardless of hospital confinement up to the maximum out-of-pocket amount for Medicare Part B after the medicare deductible amount.

(d) The expanded coverage policy and the comprehensive coverage policy shall include the basic coverage and more extensive coverage than the basic coverage.

(e) The State Board of Insurance annually shall review each of the policy forms and shall amend the forms as necessary to bring them into compliance with this Act and federal law and to assure that the coverage provided is just, fair, and not unfairly discriminatory to an insured or potential insured.

(f) The State Board of Insurance in promulgating or amending the policy forms required by this section and in approving all additional forms shall issue reasonable rules to establish specific standards for provisions of medicare supplement policies. Such standards shall be in addition to and in accordance with applicable laws of this state, including but not limited to Subchapter C of Chapter 3 and Chapter 20 of this Code and the Texas Health Maintenance Organization Act, as amended (Chapter 20A, Vernon's Texas Insurance Code), and may cover but shall not be limited to:

- (1) terms of renewability;
- (2) initial and subsequent conditions of eligibility;
- (3) nonduplication of coverage;
- (4) probationary periods;
- (5) benefit limitations, exceptions, and reductions;
- (6) elimination periods;
- (7) requirements for replacement;
- (8) recurrent conditions; [and]
- (9) definitions of terms; and
- (10) exclusions required by state or federal law.

(g) [(b)] The State Board of Insurance may issue reasonable rules that specify prohibited provisions not otherwise specifically authorized by statute which, in the opinion of the State Board of Insurance, are unjust, unfair, or unfairly discriminatory to any person insured or proposed for coverage under a medicare supplement policy.

(h) [(c)] Notwithstanding any other provisions of the law, a medicare supplement policy may not deny a claim for losses incurred more than six months from the effective date of coverage for a preexisting condition. Such policy may not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six months before the effective date of coverage.

Sec. 3. MINIMUM STANDARDS FOR BENEFITS AND CLAIM PAYMENTS. The State Board of Insurance shall issue reasonable rules to establish minimum standards for benefits and claim payments under medicare supplement policies. Those minimum standards for claim payments shall include the requirements for certification of medicare supplement policies as provided by 42 U.S.C. Section 1395ss.

Sec. 4. LOSS RATIO STANDARDS AND FILING REQUIREMENTS.

(a) Medicare supplement policies shall [be expected to] return to policyholders or certificate holders under those policies [holders of a medicare supplement policy] benefits which are reasonable in relation to the premium charged. The State Board of Insurance shall issue reasonable rules to establish and to ensure maintenance of

minimum standards for loss ratios of medicare supplement policies ~~[on the basis of incurred claims experience and earned premiums]~~ for the entire period for which rates are computed to provide coverage, ~~but in no event greater than 10 years and in accordance with accepted actuarial principles and practices, and for equitable treatment of policyholders.~~ On all policies which have been in force three years or more, it is expected that the calendar year experience subsequent to the third policy anniversary will result in a loss ratio of greater than or equal to the aggregate loss ratio. The minimum standards for loss ratios shall be based on incurred health care expenses if coverage is provided on a service rather than a reimbursement basis. Each entity designated in Section 1(a) of this article that delivers or issues for delivery in this state a medicare supplement policy or certificate shall file annually, in accordance with rules established by the board, its rates and rating schedules and supporting documentation demonstrating that the entity is in compliance with the loss ratio standards established pursuant to this section.

(b) The commissioner of insurance shall issue a report on or before October 1 of each year that lists for each insurer selling medicare supplement insurance in this state, the forms offered by such insurer or entity, whether or not the forms are standard forms promulgated by the State Board of Insurance and the insurer's or other entity's actual loss ratios achieved in using those forms. The loss ratios shall be shown by year of issue both on an aggregate basis and on a calendar year basis.

(d) Each entity designated in Section 1(a) of this article that issues a medicare supplement insurance policy or certificate to a person who resides in this state shall file a copy of that policy or certificate in accordance with the filing requirements and procedures established under Article 3.42 of this code. ~~[For purposes of rules issued pursuant to this section, medicare supplement policies issued as a result of solicitations of individuals through the mail or mass media advertising, including both print and broadcast advertising, shall be treated as individual medicare supplement policies.]~~

Sec. 6. NOTICE OF FREE EXAMINATION. Medicare supplement policies or certificates ~~[, other than those issued pursuant to direct response solicitation,]~~ shall have a notice prominently printed on the first page of such policy or certificate or attached thereto stating in substance that the applicant shall have the right to return such policy or certificate within 30 ~~[+0]~~ days of its delivery and to have the premium refunded if, after examination of such policy or certificate, the applicant is not satisfied for any reason. A refund made pursuant to this section must be paid directly to the applicant in a timely manner by the entity issuing the policy or certificate ~~[Medicare supplement policies or certificates issued pursuant to a direct response solicitation to persons eligible for medicare shall have a notice prominently printed on the first page or attached thereto stating in substance that the applicant shall have the right to return such policy or certificate within 30 days of its delivery and to have the premium refunded if, after examination, the applicant is not satisfied for any reason].~~

SECTION _____. Subsection (a), Section 5, Article 3.74, Insurance Code, is amended to read as follows:

(a) In order to provide for full and fair disclosure in the sale of medicare supplement policies, no medicare supplement policy or certificate shall be delivered or issued for delivery in this state ~~[and no certificate shall be delivered pursuant to a group medicare supplement policy delivered or issued for delivery in this state]~~ unless an outline of coverage is delivered to the applicant at the time application is made.

SECTION _____. Article 3.74, Insurance Code, is amended by adding Sections 8 and 9 to read as follows:

Sec. 8. REPLACEMENT OF MEDICARE SUPPLEMENT POLICIES. (a) The State Board of Insurance shall issue reasonable rules to require that an entity

designated in Section 1(a) of this article and that provides medicare supplement insurance or coverage to a resident of this state shall not provide compensation to its agents or other producers that is greater than the renewal compensation that would have been paid on an existing policy or coverage if that existing policy or coverage is replaced by another policy or coverage with the same entity and if the new policy benefits or coverage benefits are substantially similar to the benefits under the old policy or coverage and the old policy was issued by the same insurer, insurer group, or entity.

(b) If an insurer or other entity delivers or issues for delivery a medicare supplement policy that replaces an existing medicare supplement policy, the succeeding insurer or other entity shall give credit for the satisfaction or partial satisfaction of any waiting periods already satisfied.

Sec. 9. FILING REQUIREMENTS FOR ADVERTISING. (a) The State Board of Insurance shall issue reasonable rules to require each entity designated in Section 1(a) of this article that delivers or issues for delivery in this state a group or individual medicare supplement policy or certificate to provide to the State Board of Insurance, within 60 days before the intended use of the advertisement, a copy of the advertisement that is intended for use in this state and that relates to medicare supplement insurance. The advertisement must comply with applicable law of this state and rules of the State Board of Insurance.

(b) An entity may not use an advertisement for medicare supplement insurance that does not comply with this state's law and the board's rules.

SECTION _____. Section 3A, Article 21.07-1, Insurance Code, is amended to read as follows:

Sec. 3A. CONTINUING EDUCATION. (a) The State Board of Insurance shall adopt a procedure for certifying and shall certify continuing education programs for agents. Participation in the programs is mandatory for all agents licensed under this article. The State Board of Insurance shall exempt agents who have been licensed for 15 years or more beginning September 1, 1987; 16 years or more beginning September 1, 1988; 17 years or more beginning September 1, 1989; 18 years or more beginning September 1, 1990; 19 years or more beginning September 1, 1991; and 20 years or more on or after September 1, 1992, and shall have the rulemaking authority to provide for other reasonable exemptions. No agent shall be required to complete more than 15 hours of continuing education per year. An agent licensed under both Articles 21.07-1 and 21.14 may elect to satisfy the continuing education requirements of either article and shall not be required to complete a total of more than 15 hours of continuing education per year.

(b) Agents required to complete continuing education programs pursuant to Subsection (a) shall complete at least two hours per year on subject matter related to medicare supplement insurance.

SECTION _____. Subsection (a), Section 4, Article 21.07, Insurance Code, is amended to read as follows:

(a) Each applicant for a license under the provisions of this Article 21.07, Texas Insurance Code, 1951, as amended, who desires to write health and accident insurance, other than as excepted in Section 3 of this Article 21.07, within this State shall submit to a personal written examination prescribed by the State Board of Insurance and administered in the English or Spanish language to determine his competency with respect to health and accident insurance, specifically including medicare supplement insurance, and his familiarity with the pertinent provisions of the laws of the State of Texas relating to health and accident insurance, specifically including medicare supplement insurance, and shall pass the same to the satisfaction of the State Board of Insurance; except that no written examination shall be required of:

(i) An applicant for the renewal of a license issued by the State Board of Insurance pursuant to Article 21.07, Texas

Insurance Code, 1951, as amended, which is currently in force at the effective date of this Act;

(ii) An applicant whose license expired less than one year prior to the date of application may, in the discretion of the State Board of Insurance, be issued a license without written examination, provided such prior license granted such applicant the right to sell health and accident insurance; or

(iii) An applicant that is a partnership or corporation.

SECTION ____ Subsection (A), Section 2, Chapter 397, Acts of the 54th Legislature, Regular Session, 1955 (Article 3.70-2, Vernon's Texas Insurance Code), is amended to read as follows:

(A) No policy of accident and sickness insurance shall be delivered or issued for delivery to any person in this state unless:

(1) the entire money and other consideration therefor are expressed therein or in the application, if it is made a part of the policy; and

(2) the time at which the insurance takes effect and terminates is expressed therein; and

(3) it purports to insure only one person, except that a policy may insure, originally or by subsequent amendment, upon the application of an adult member of a family who shall be deemed the policy holder, any two or more eligible members of that family, including husband, wife, dependent children or any children under a specified age which shall not exceed twenty-five years, and any other person dependent upon the policy holder; and

(4) the style, arrangement and over-all appearance of the policy gives no undue prominence to any portion of the text, and unless every printed portion of the text of the policy, the text ~~and~~ of any endorsements or attached papers (except copies of ~~applications and~~ identification cards), and the application are plainly printed in lightfaced type of a style in general use, the size of which shall be uniform and not less than ten-point with a lower-case unspaced alphabet length not less than one hundred and twenty-point (the "text" shall include all printed matter except the name and address of the insurer, name or title of the policy, the brief description, if any, and captions and subcaptions); and

(5) the exceptions and reductions of indemnity are set forth in the policy and, except those which are set forth in Section 3 of this Act, are printed, at the insurer's option, either included with the benefit provision to which they apply, or under an appropriate caption such as "Exceptions" or "Exceptions and Reductions"; provided that if an exception or reduction specifically applies only to a particular benefit of the policy, a statement of such exception or reduction shall be included with the benefit provision to which it applies; and

(6) each such form, including riders and endorsements, shall be identified by a form number in the lower left-hand corner of the first page thereof; and

(7) it contains no provision purporting to make any portion of the charter, rules, constitution, or bylaws of the insurer a part of the policy unless such portion is set forth in full in the policy, except in the case of the incorporation of, or reference to, a statement of rates or classification of risks, or shortrate table filed with the Board; and

(8) it shall have printed thereon or attached thereto a notice stating in substance that the person to whom the policy is issued shall be permitted to return the policy within ten (10) days of its delivery to such person and to have the premium paid refunded if, after examination of the policy, such person is not satisfied with it for any reason. If such person pursuant to such notice, returns the policy to the insurer at its home or branch office or to the agent through whom it

was purchased, it shall be void from the beginning and the parties shall be in the same position as if no policy has been issued. This subdivision shall not apply to single premium nonrenewable policies.

SECTION ____ Subsection (a), Section 2, Article 1.14-1, Insurance Code, is amended by adding Subdivision 11 to read as follows:

11. The use, creation, publication, mailing, or dissemination of any advertisement respecting any of the acts defined herein to be doing an insurance business unless:

(i) such advertisement is used, created, published, mailed, or disseminated on behalf of a person or insurer authorized under this title to engage in the business of insurance in this state, who has actual knowledge of the content of the advertisement and has authorized it to be used, created, published, mailed or disseminated on its behalf; and

(ii) the person or insurer on whose behalf the advertisement is used, created, published, mailed, or disseminated is, in such advertisement, clearly identified by name as the sponsor of the advertisement.

SECTION ____ The State Board of Insurance shall have authority to promulgate reasonable rules to implement the provisions of this Act.

SECTION ____ (a) This Act, except as provided in Subsections (b) and (c) of this section, takes effect September 1, 1989.

(b) Article 3.74, Insurance Code, as amended by this Act, applies only to medicare supplement policies and certificates delivered or issued for delivery on and after January 1, 1990. Policies and certificates delivered, issued for delivery, or renewed before January 1, 1990, are governed by the law that existed immediately before September 1, 1989, and that law is continued in effect for that purpose.

(c) Section 8 of this Act takes effect January 1, 1990.

EDWARDS

GREEN

The amendment was read and was adopted viva voce vote.

On motion of Senator Washington and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading viva voce vote.

COMMITTEE SUBSTITUTE HOUSE BILL 2608 ON THIRD READING

Senator Edwards moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that C.S.H.B. 2608 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed viva voce vote.

SENATE RULE 7.22(b) SUSPENDED

On motion of Senator Parker and by unanimous consent, Senate Rule 7.22(b) was suspended as it relates to the House amendments to S.B. 170.

SENATE BILL 170 WITH HOUSE AMENDMENTS

Senator Parker called S.B. 170 from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Floor Amendment No. 1 - Kubiak

Amend **S.B. 170** on page 1 line 20 by striking the number "15" and substituting the number "40".

Floor Amendment No. 2 - Waterfield

Amend **S.B. 170** by inserting the following after "purpose" on line 12, page 1:

"or the pickup truck in which the child was riding is the only vehicle owned by the person operating the vehicle."

The amendments were read.

Senator Parker moved that the Senate do not concur in the House amendments, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the Conference Committee on **S.B. 170** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Parker, Chairman; Green, Lyon, Caperton and Brooks.

CONFERENCE COMMITTEE ON HOUSE BILL 2566

Senator Parker called from the President's table for consideration at this time the request of the House for a Conference Committee to adjust the differences between the two Houses on **H.B. 2566** and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the Conference Committee on **H.B. 2566** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Parker, Chairman; Haley, Green, Krier and Truan.

SENATE BILL 457 WITH HOUSE AMENDMENTS

Senator Parker called **S.B. 457** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Committee Amendment - Schlueter

Amend **S.B. 457** by striking all below the enacting clause and substituting in lieu thereof the following:

ARTICLE 1. EDUCATION CODE: GENERAL AMENDMENTS

SECTION 1.01. Sections 61.0211 and 61.0221, Education Code, are amended to read as follows:

Sec. 61.0211. APPLICATION OF SUNSET ACT. The Texas Higher Education Coordinating Board is subject to the Texas Sunset Act (Chapter 325,

Government Code). Unless continued in existence as provided by that Act, the board is abolished and this chapter expires September 1, 2001 [1989].

Sec. 61.0221. DUTY IN MAKING OR CONFIRMING APPOINTMENTS. (a) In making or confirming appointments to the coordinating board, the governor and senate shall ensure that the appointee has the background and experience suitable for performing the statutory responsibility of a member of the coordinating board.

(b) Appointments to the board shall be made without regard to the race, color, handicap, sex, religion, age, or national origin of the appointees.

SECTION 1.02. Subchapter B, Chapter 61, Education Code, is amended by adding Section 61.0222 to read as follows:

Sec. 61.0222. RESTRICTIONS ON BOARD APPOINTMENT, MEMBERSHIP, AND EMPLOYMENT. (a) A member of the board must be a representative of the general public. A person is not eligible for appointment as a member of the board if the person or the person's spouse:

(1) is employed by or participates in the management of a business entity or other organization regulated by the board or receiving funds from the board;

(2) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by the board or receiving funds from the board; or

(3) uses or receives a substantial amount of tangible goods, services, or funds from the board, other than compensation or reimbursement authorized by law for board membership, attendance, or expenses.

(b) An officer, employee, or paid consultant of a Texas trade association in the field of higher education may not be a member or employee of the board if the person is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule.

(c) A person who is the spouse of an officer, manager, or paid consultant of a Texas trade association in the field of higher education may not be a board member and may not be a board employee who is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule.

(d) A person may not serve as a member of the board or act as the general counsel to the board if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the board.

(e) For the purposes of this section, a Texas trade association is a nonprofit, cooperative, and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

SECTION 1.03. Subchapter B, Chapter 61, Education Code, is amended by adding Section 61.0223 to read as follows:

Sec. 61.0223. REMOVAL OF BOARD MEMBER. (a) It is a ground for removal from the board if a member:

(1) does not have at the time of appointment the qualifications required by Section 61.0222(a) of this code;

(2) does not maintain during service on the board the qualifications required by Section 61.0222(a) of this code;

(3) violates a prohibition established by Section 61.022 or Section 61.0222(b), (c), or (d) of this code;

(4) cannot discharge the member's duties for a substantial part of the term for which the member is appointed because of illness or disability; or

(5) is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend during a calendar year unless the absence is excused by majority vote of the board.

(b) The validity of an action of the board is not affected by the fact that it is taken when a ground for removal of a board member exists.

(c) If the commissioner has knowledge that a potential ground for removal exists, the commissioner shall notify the chairman of the board of the ground. The chairman shall then notify the governor that a potential ground for removal exists.

SECTION 1.04. Section 61.025, Education Code, is amended to read as follows:

Sec. 61.025. QUORUM; MEETINGS; AGENDA. (a) A majority of the membership of the board constitutes a quorum.

(b) The board shall hold regular quarterly meetings in the city of Austin, and other meetings at places and times scheduled by it in formal sessions and called by the chairman.

(c) An agenda for the meetings in sufficient detail to indicate the items on which final action is contemplated shall be mailed to the chairman of each governing board and to the chief administrative officer of each state institution of higher education at least 30 days prior to the meeting.

(d) The board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the jurisdiction of the board.

SECTION 1.05. Section 61.028, Education Code, is amended to read as follows:

Sec. 61.028. COMMISSIONER OF HIGHER EDUCATION; PERSONNEL; CONSULTANTS. (a) The board shall appoint a commissioner of higher education, who shall select and supervise the board's staff and perform other duties delegated to him by the board. The commissioner shall serve at the pleasure of the board.

(b) The commissioner shall be a person of high professional qualifications having a thorough background by training and experience in the fields of higher education and administration and shall possess such other qualifications as the board may prescribe.

(c) The commissioner shall employ professional and clerical personnel and consultants as necessary to assist the board and the commissioner in performing the duties assigned by this chapter. The number of employees, their compensation and the other expenditures of the board shall be within the limits and in compliance with the appropriation made for those purposes by the legislature and within budgets that shall be approved from time to time by the board.

(d) The commissioner or the commissioner's designee shall develop an intraagency career ladder program. The program shall require intraagency postings of all nonentry level positions concurrently with any public posting.

(e) The commissioner or the commissioner's designee shall develop a system of annual performance evaluations. All merit pay for board employees must be based on the system established under this subsection.

(f) The commissioner or the commissioner's designee shall prepare and maintain a written policy statement to assure implementation of a program of equal employment opportunity under which all personnel transactions are made without regard to race, color, handicap, sex, religion, age, or national origin. The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, appointment, training, and promotion of personnel;

(2) a comprehensive analysis of the board's work force that meets federal and state guidelines;

(3) procedures by which a determination can be made of significant underuse in the board's work force of all persons for whom federal or state guidelines encourage a more equitable balance; and

(4) reasonable methods to appropriately address those areas of significant underuse.

(g) A policy statement prepared under Subsection (f) of this section must cover an annual period, be updated at least annually, and be filed with the governor's office.

(h) The governor's office shall deliver a biennial report to the legislature based on the information received under Subsection (g) of this section. The report may be made separately or as part of other biennial reports made to the legislature.

(i) The board shall develop and implement policies that clearly define the respective responsibilities of the board and the staff of the board.

SECTION 1.06. Subchapter B, Chapter 61, Education Code, is amended by adding Section 61.029 to read as follows:

Sec. 61.029. INTERNAL AUDITOR. (a) The commissioner of higher education shall appoint an internal auditor for the board. The appointment of an internal auditor must be approved by the board.

(b) The internal auditor shall report to the commissioner. The board by rule may require the internal auditor to submit certain reports directly to the board.

(c) A committee of the board whose primary function is to oversee the administration of the board shall meet with the internal auditor at least as frequently as quarterly.

(d) The internal auditor's duties include:

(1) the review and appraisal of the accounting, financial, and operating activities of the board, including its internal information management; and

(2) appraisal of the board's effectiveness in meeting its statutory duties.

(e) The state auditor shall review the quality and the effectiveness of the board's internal management information as part of the auditor's responsibility to conduct expanded scope audits of state agencies.

SECTION 1.07. Subchapter B, Chapter 61, Education Code, is amended by adding Section 61.030 to read as follows:

Sec. 61.030. QUALIFICATIONS AND STANDARDS OF BOARD MEMBERS AND EMPLOYEES. The board shall provide to its members and employees, as often as necessary, information regarding their qualifications for office or employment under this chapter and their responsibilities under applicable laws relating to standards of conduct for state officers or employees.

SECTION 1.08. Subchapter B, Chapter 61, Education Code, is amended by adding Section 61.031 to read as follows:

Sec. 61.031. PUBLIC INTEREST INFORMATION AND COMPLAINTS.

(a) The board shall prepare information of public interest describing the functions of the board and the board's procedures by which complaints are filed with and resolved by the board. The board shall make the information available to the public and appropriate state agencies.

(b) The board shall keep an information file about each complaint filed with the board that the board has authority to resolve.

(c) If a written complaint is filed with the board that the board has authority to resolve, the board, at least quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an undercover investigation.

SECTION 1.09. Subchapter B, Chapter 61, Education Code, is amended by adding Section 61.032 to read as follows:

Sec. 61.032. NOTICE OF NATIONAL COMPACT MEETINGS. The commissioner of higher education or the commissioner's designee on behalf of Texas members of the Board of Control for Southern Regional Education shall file notice of board of control meetings with the secretary of state's office for publication in the Texas Register.

SECTION 1.10. Subchapter B, Chapter 61, Education Code, is amended by adding Section 61.033 to read as follows:

Sec. 61.033. COMPETITIVE COST REVIEW PROGRAM. The board is subject to Article 13, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes).

SECTION 1.11. Sections 61.051(a), (d), (e), (g), (h), (j), and (m), Education Code, are amended to read as follows:

(a) The board shall represent the highest authority in the state in matters of public higher education and is charged with the duty to take an active part in promoting quality education in the various regions of the state. The board shall be responsible for assuring that there is no discrimination in the distribution of programs and resources throughout the state on the basis of race, national origin, or sex. The board shall develop a five-year master plan for higher education in this state and update the plan annually. The five-year plan shall take into account the resources of private institutions of higher education in this state. The board shall:

(1) inform the legislature on matters pertaining to higher education, including the state's activities in the Board of Control for Southern Regional Education; and

(2) [shall] report to the legislature in January of each year on the state of higher education in Texas.

(d) The board shall develop, after direct consultation with the governing board of the institution and after providing a forum for a public hearing, [classify and prescribe] the role and mission [scope] for each public institution of higher education in Texas. The board[, shall make such changes in classification or role and scope of each institution as it deems necessary, and] shall hear applications from the institutions for changes in [classification or] role and mission and make changes necessary to update the role and mission statements of each institution. The board shall adopt by rule the criteria to be used in reviewing the role and mission statements [scope]. The board, after direct consultation with the governing board of the institution and after providing the forum for a public hearing, may prescribe by rule maximum enrollment limits for such institution. In setting maximum enrollment limits, the board shall take into account any financial hardship such enrollment limits might cause qualified Texas residents seeking a higher education. The governing board of each institution shall determine the maximum enrollment limits for any department, school, degree program, or certificate program at the institution.

(e) The board shall review periodically the role and mission statements, the table of programs, and all degree and certificate programs offered by the public institutions of higher education to assure that they meet the present and future needs of the state and the counties in which they are located. The board's review shall be performed at least every four years and shall involve the chairperson of the institution's board of regents. The board shall also order the initiation, consolidation, or elimination of degree or certificate programs where that action is in the best interest of the public institutions themselves or the general requirements of the State of Texas, the counties in which they are located, or when that action offers hope of achieving excellence by a concentration of available resources. No new department, school, degree program, or certificate program may be added at any public institution of higher education except with specific prior approval of the board. [Once approved, no department, school, degree program, or certificate

program at any public institution of higher education may be expanded to include ~~subject matter courses that are outside of approved degree and certificate programs except with specific prior approval of the board.~~] The board may authorize an institution to continue a doctoral program that is inconsistent with the role and mission of the institution if the program was in existence on September 1, 1987, and the board determines that continuation of the program is warranted.

(g) The board shall develop and promulgate a basic core of general academic courses which ~~when offered at a junior college during the first two years of collegiate study,~~] shall be freely transferable among all public institutions of higher education in Texas which are members of recognized accrediting agencies on the same basis as if the work had been taken at the receiving institution. The board shall develop and implement policies to provide for the free transferability of lower division course credit among institutions of higher education. The board shall develop and implement policies and procedures to be used by each institution of higher education to resolve disputes concerning the transfer of lower division course credit. The commissioner is responsible for the final resolution of a dispute concerning the transfer of lower division course credit. The board shall collect data on the types of transfer disputes that are reported to the board and the disposition of each case.

(h) The board shall make continuing studies of the needs of the state for research ~~[and for extension and public services]~~ and designate the institutions of higher education to perform research as needed~~[- public service, and extension programs, including limitation of extension programs for credit to specific geographic areas].~~ The board shall also maintain an inventory of all institutional and programmatic research~~[- extension, and public service]~~ activities being conducted by the various institutions, whether state-financed or not. Once a year, on dates prescribed by the board, each institution of higher education shall report to the board all research conducted at that institution during the last preceding year. All reports required by this subsection shall be made subject to the limitations imposed by security regulations governing defense contracts for research.

(j) No off-campus courses for credit may be offered by any public technical institute, public community college, or public college or university without specific prior approval of the board. The board may not prohibit a public junior college district from offering a course for credit outside the boundaries of the junior college district. The board shall establish regulations for the coordination of credit and noncredit activities of adult and continuing education by public technical institutes, public community colleges, or public colleges and universities.

(m) The board shall publish and distribute materials on admission policies, transferable courses among institutions, financial assistance programs, and other matters of interest to persons choosing an institution in which to enroll. It is the intent of the legislature that materials distributed under this subsection be designed to promote and encourage students to complete high school coursework and aspire to their highest potential by obtaining a degree from an institution of higher education. The board shall ensure that each institution of higher education publishes in its course catalogs the procedures adopted by the board under Subsection (g) of this section relating to the resolution of disputes concerning the transfer of lower division course credit.

SECTION 1.12. Subchapter C, Chapter 61, Education Code, is amended by adding Section 61.0511 to read as follows:

Sec. 61.0511. ROLE AND MISSION STATEMENT. Each institution of higher education shall develop a statement regarding the role and mission of the institution reflecting the three missions of higher education: teaching, research, and public service.

SECTION 1.13. Subchapter C, Chapter 61, Education Code, is amended by adding Section 61.0512 to read as follows:

Sec. 61.0512. NEW DEGREE PROGRAMS; NOTIFICATION TO BOARD. At the time a public senior college or university begins preliminary planning for a new degree program or a new organizational unit to administer a new degree program, the college or university shall notify the board. In the implementation of this subsection, the board may not require additional reports from the institutions.

SECTION 1.14. Section 61.052, Education Code, is amended to read as follows:

Sec. 61.052. LIST OF COURSES: ANNUAL SUBMISSION TO BOARD.

(a) Each governing board shall submit to the board once each year on dates designated by the board a comprehensive list by department, division, and school of all courses, together with a description of content, scope, and prerequisites of all these courses, that will be offered by each institution under the supervision of that governing board during the following academic year.

(b) After the comprehensive list of courses is submitted by a governing board under Subsection (a) of this section, the governing board shall submit on dates designated by the board any changes in the comprehensive list of courses to be offered.

(c) The board may order the deletion or consolidation of any courses so submitted after giving due notice with reasons for that action and after providing a hearing if one is requested by the governing board involved.

SECTION 1.15. Subchapter C, Chapter 61, Education Code, is amended by adding Section 61.0571 to read as follows:

Sec. 61.0571. MINORITY AND FEMALE-OWNED BUSINESS CONTRACTS. (a) The board and each public senior college or university shall establish policies to encourage minority and female-owned small businesses to bid for board or institution contract and open market purchases and to assist those businesses in that bidding. Each institution shall file a copy of its policies with the board. The board and each institution shall review its policies periodically to correct any deficiencies in the policies.

(b) The board and each institution annually shall determine the number, types, and value of contracts awarded to minority and female-owned small businesses in the year preceding the determination and the ratio of the number and the value of those contracts to the number and the value of all contracts awarded by the board or institution in that year. Each institution shall submit its determination to the board, and the board shall develop a summary analysis of the information submitted by those institutions.

(c) The board shall:

(1) file the board's policies established under this section with the State Purchasing and General Services Commission and the Texas Department of Commerce; and

(2) submit to those agencies the policies filed with and the determinations submitted to the board by each institution under Subsections (a) and (b) of this section.

(d) The commission shall:

(1) conduct an analysis of the policies of the board and each institution and of those policies' effectiveness; and

(2) report the analysis to the governor, lieutenant governor, and speaker of the house of representatives not later than December 31 of each even-numbered year.

(e) In this section:

(1) "Institution" means a public senior college or university.

(2) "Minority or female-owned small business" means a business enterprise:

(A) that is an independently owned and operated business enterprise, formed for the purpose of making a profit, that has fewer than 100 employees and less than \$1 million in annual gross receipts; and

(B) at least 51 percent of which is owned or controlled by one or more socially and economically disadvantaged persons who are socially disadvantaged because of their identification as members of certain groups, including women, black Americans, Mexican-Americans and other Americans of Hispanic origin, Asian-Americans, and American Indians.

SECTION 1.16. Section 61.058, Education Code, is renumbered and amended to read as follows:

Sec. 61.0572 [61.058]. CONSTRUCTION FUNDS AND DEVELOPMENT OF PHYSICAL PLANTS. (a) To assure efficient use of construction funds and the orderly development of physical plants to accommodate projected college student enrollments, the board shall carry out the duties prescribed by this section and Section 61.058 of this code.

(b) The board shall:

(1) determine formulas for space utilization in all educational and general buildings and facilities at institutions of higher education;

(2) devise and promulgate methods to assure maximum daily and year-round use of educational and general buildings and facilities, including but not limited to maximum scheduling of day and night classes and maximum summer school enrollment;

(3) consider plans for selective standards of admission when institutions of higher education approach capacity enrollment;

(4) require, and assist the public technical institutes, public senior colleges and universities, medical and dental units, and other agencies of higher education in developing long-range campus master plans for campus development;

(5) endorse, or delay until the next succeeding session of the legislature has the opportunity to approve or disapprove, the proposed purchase of any real property by an institution of higher education, except a public junior college;

(6) develop and publish standards, rules, and regulations to guide the institutions and agencies of higher education in making application for the approval of new construction and major repair and rehabilitation of all buildings and facilities regardless of proposed use; and

(7) ascertain that the standards and specifications for new construction, repair, and rehabilitation of all buildings and facilities are in accordance with Article 7, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes).~~[-and]~~

(c) The board in consultation with institutions of higher education shall develop space standards for new construction or other capital improvement projects at public senior colleges and universities and medical and dental units that address the differences in space requirements in teaching, research, and public service activities for those institutions. The standards developed under this subsection shall not be used to determine space needs for those projects related to clinical care facilities.

(d) The board, for purposes of state funding, may review and approve as an addition to an institution's educational and general buildings and facilities inventory any improved real property acquired by lease-purchase only if:

(1) the institution requests to place the improved real property on its educational and general buildings and facilities inventory; and

(2) the value of the improved real property is more than \$300,000 at the time the institution requests the property to be added to the educational and general buildings and facilities inventory.

Sec. 61.058. NEW CONSTRUCTION AND REPAIR AND REHABILITATION PROJECTS. The board shall ~~[(f)]~~ approve or disapprove all

new construction and repair and rehabilitation of all buildings and facilities at institutions of higher education financed from any source provided that:

(A) the board's consideration and determination shall be limited to the purpose for which the new or remodeled buildings are to be used to assure conformity with approved space utilization standards and the institution's approved programs and role and mission [scope] if the cost of the project is not more than \$600,000 [~~\$500,000~~], but the board may consider cost factors and the financial implications of the project to the state if the total cost is in excess of \$600,000 [~~\$500,000~~];

(B) the requirement of approval for new construction [~~financed from other than appropriated funds~~] applies only to projects the total cost of which is in excess of \$300,000;

(C) the requirement of approval for major repair and rehabilitation of buildings and facilities applies only to a project [~~projects~~] the total cost of which is more than \$600,000 [~~in excess of \$300,000~~];

(D) the requirement of approval or disapproval by the board does not apply to any new construction or major repair and rehabilitation project that is specifically approved by the legislature;

(E) the requirement of approval by the board does not apply to a junior college's construction, repair, or rehabilitation financed entirely with funds from a source other than the state, including funds from ad valorem tax receipts of the college, gifts, grants, and donations to the college, and student fees; and

(F) the requirement of approval by the board does not apply to construction, repair, or rehabilitation of privately owned buildings and facilities located on land leased from an institution of higher education if the construction, repair, or rehabilitation is financed entirely from funds not under the control of the institution, and provided further that:

(i) the buildings and facilities are to be used exclusively for auxiliary enterprises; and

(ii) the buildings and facilities will not require appropriations from the legislature for operation, maintenance, or repair unless approval by the board has been obtained.

SECTION 1.17. Subchapter C, Chapter 61, Education Code, is amended by adding Section 61.0582 to read as follows:

Sec. 61.0582. CAMPUS MASTER PLAN; DEFERRED MAINTENANCE.

(a) Each public technical institute, public senior college or university, medical or dental unit, or other agency of higher education required to submit a campus master plan under Section 61.0572 of this code shall include in the campus master plan:

(1) an assessment of the institution's deferred maintenance needs, including regular, preventive maintenance needs;

(2) a plan to address the institution's deferred maintenance needs;

(3) the amount the institution plans to designate each year for repairs, rehabilitations, and deferred maintenance projects; and

(4) the funding source for any new construction project that costs more than \$300,000 or repair and rehabilitation project that costs more than \$600,000.

(b) Under Subsection (a)(4) of this section, an institution shall report to the board any change in the funding source of a project before the project begins.

(c) The board shall use the information obtained in the board's assessment of deferred maintenance needs in its review of the allocation formula under Section 62.022 of this code.

SECTION 1.18. Subchapter C, Chapter 61, Education Code, is amended by adding Section 61.0583 to read as follows:

Sec. 61.0583. AUDIT OF FACILITIES. (a) The board periodically shall conduct a comprehensive audit of all educational and general facilities on the campuses of public senior colleges and universities and the Texas State Technical Institute to verify the accuracy of the facilities inventory for each of those institutions.

(b) The board shall verify the accuracy of the square footage reported in each institution's budget request in relation to the facilities inventory.

(c) The audit must include a periodic review of construction projects to confirm that:

(1) a project has received prior approval by the board if required by Section 61.058 of this code; and

(2) an approved project is completed as specified in the request to the board for approval of the project.

(d) The board shall report its findings concerning the audits conducted under this section to the Legislative Budget Board and the audited institutions.

SECTION 1.19. Section 61.059(b), Education Code, is amended to read as follows:

(b) The board shall devise, establish, and periodically review and revise formulas for the use of the governor and the Legislative Budget Board in making appropriations recommendations to the legislature for all institutions of higher education, including the funding of postsecondary vocational-technical programs. As a specific element of the periodic review, the board shall study and recommend changes in the funding formulas based on the role and mission statements of institutions of higher education. In carrying out its duties under this section, the board shall employ an ongoing process of committee review and expert testimony and analysis.

SECTION 1.20. Section 61.069, Education Code, is amended to read as follows:

Sec. 61.069. BOARD REPORT. (a) The board shall file annually with the governor and the presiding officer of each house of the legislature a complete and detailed written report accounting for all funds received and disbursed by the board during the preceding fiscal year.

(b) The annual report must be in the form and reported in the time provided by the General Appropriations Act [make a report of its activities to the governor annually and to the legislature not later than December 1 prior to the regular session of the legislature].

SECTION 1.21. Subchapter C, Chapter 61, Education Code, is amended by adding Section 61.076 to read as follows:

Sec. 61.076. COOPERATION BETWEEN STATE AGENCIES OF EDUCATION. (a) It is the policy of the State of Texas that the entire system of education supported with public funds be coordinated to provide the citizens with efficient, effective, and high quality educational services and activities. The board and the State Board of Education, in conjunction with such other agencies as may be appropriate, shall ensure that long-range plans and educational programs established by the boards complement the functioning of the entire system of public education, extending from early childhood education through postgraduate study. In assuring that plans and programs are coordinated, the boards shall use the joint advisory committee established under Section 61.077 of this code.

(b) The joint advisory committee shall coordinate plans and programs of the two boards, including curricula, instructional programs, research, and other functions as appropriate. This coordination shall include the following areas:

- (1) equal educational opportunity for all Texans;
- (2) college recruitment, with special emphasis on the recruitment of minority students;

(3) preparation of high school students for further study at colleges and universities;

(4) reduction of the dropout rate and dropout prevention;

(5) teacher education; and

(6) testing and assessment.

SECTION 1.22. Sections 61.301 and 61.302 (2), Education Code are amended to read as follows:

Sec. 61.301. PURPOSE. It is the policy and purpose of the State of Texas to prevent deception of the public resulting from the conferring and use of fraudulent or substandard college, ~~[and] university, and proprietary school~~ degrees; it is also the purpose of this subchapter to regulate the use of academic terminology in naming or otherwise designating educational institutions and degrees; the advertising, solicitation or representation by educational institutions or their agents, and the maintenance and preservation of essential academic records. Because degrees and equivalent indicators of educational attainment are used by employers in judging the training of prospective employees, by public and private professional groups in determining qualifications for admission to and continuance of practice, and by the general public in assessing the competence of persons engaged in a wide range of activities necessary to the general welfare, regulation by law of the evidences of college, university and proprietary school educational attainment is in the public interest. To the same end the protection of legitimate institutions and of those holding degrees from them is also in the public interest.

Sec. 61.302. Definitions.

(2) "Private institution of higher education" or "institution" means a proprietary school as defined by Section 32.11 (1) of this code or an educational institution which:

(A) is not an institution of higher education as defined by Section 60.003(7) of this code;

(B) is incorporated under the laws of this state, maintains a place of business in this state, has a representative present in this state, or solicits business in this state; and

(C) furnishes or offers to furnish courses of instruction in person, by electronic media, or by correspondence leading to a degree or providing credits alleged to be applicable to a degree.

SECTION 1.23. Subsections (b) and (f), Section 61.505, Education Code, are amended to read as follows:

(b) The terms of office of each member, excluding the term of office of the president of the Texas Academy of Family Physicians, shall be for three years; ~~except for the initial term, which shall be designated in a manner approved by the board in such a way, insofar as is possible, that one third of the members shall serve for one year, one third for two years, and one third for three years, and thereafter each member shall serve for a term of three years].~~ Each member shall serve until his replacement has been appointed to the committee.

(f) The committee shall:

(1) review for the board applications for approval and funding of family practice residency training programs and related support programs;[:]

(2) make recommendations to the board relating to:

(A) the standards and criteria for approval of residency training and related support and programs; and

(B) the effectiveness of the programs the board administers that provide incentives to physicians to practice in underserved areas of this state;[:] and

(3) perform such other duties as may be directed by the board.

SECTION 1.24. The headings of Subchapters J and K, Chapter 61, Education Code, are amended to read as follows:

**SUBCHAPTER J. REPAYMENT OF CERTAIN PHYSICIAN
EDUCATION [STUDENT] LOANS**
**SUBCHAPTER K. REPAYMENT OF CERTAIN PHYSICAL
THERAPIST EDUCATION [STUDENT] LOANS**

SECTION 1.25. Subsection (a), Section 61.534, Education Code, is amended to read as follows:

(a) The coordinating board may provide repayment assistance for the repayment of any student loan for education at an institution of higher education, including loans for undergraduate education, received by a physician through any [a] lender [in Texas].

SECTION 1.26. Subsection (a), Section 61.535, Education Code, is amended to read as follows:

(a) The coordinating board shall deliver any repayment made under this subchapter in a lump sum payable [directly] to the lender and the physician, in accordance with federal law.

SECTION 1.27. Subchapter J, Chapter 61, Education Code, is amended by amending Section 61.536 and adding Section 61.5361 to read as follows:

Sec. 61.536. **ADVISORY COMMITTEES.** The coordinating board may:

(1) appoint advisory committees from outside the board's membership to assist the board in performing its duties under this subchapter; and
(2) request the assistance of the Family Practice Residency Advisory Committee in performing those duties.

Sec. 61.5361. **ACCEPTANCE OF FUNDS.** The coordinating board may accept gifts, grants, and donations for the purposes of this subchapter.

SECTION 1.28. Section 52.41, Education Code, is transferred to Subchapter J, Chapter 61, Education Code, and is renumbered and amended to read as follows:

Sec. 61.539 ~~[52.41]~~. **MEDICAL SCHOOL TUITION SET ASIDE FOR CERTAIN LOAN REPAYMENTS.** (a) The governing boards of each medical unit of an institution of higher education shall cause to be set aside two percent of tuition charges for resident students registered in a medical branch, school, or college.

(b) The amount set aside shall be transferred to the comptroller of public accounts to be maintained in the state treasury for the sole purpose of repayment ~~[or cancellation]~~ of student loans of physicians serving in designated state agencies or economically depressed ~~or rural medically underserved~~ areas of the state as specified by ~~[in] this subchapter [chapter or other provisions of this code]~~.

SECTION 1.29. Chapter 61, Education Code, is amended by adding Subchapter L to read as follows:

**SUBCHAPTER L. REPAYMENT OF CERTAIN TEACHER EDUCATION
LOANS**

Sec. 61.701. **REPAYMENT AUTHORIZED.** The coordinating board may provide, using funds appropriated for that purpose and in accordance with this subchapter and board rules, assistance in the repayment of student loans for teachers who apply and qualify for the assistance.

Sec. 61.702. **ELIGIBILITY.** (a) To be eligible to receive repayment assistance, a teacher must:

(1) apply to the coordinating board; and
(2) have completed at least one year of employment in the elementary or secondary schools of this state in an area or field of acute teacher shortage as designated by the State Board of Education.

(b) The coordinating board may provide by rule for repayment assistance on a pro rata basis for teachers employed part-time in an elementary or secondary

school of this state in an area or field of acute teacher shortage as designated by the State Board of Education.

Sec. 61.703. LIMITATION. A teacher may not receive repayment assistance grants for more than five years.

Sec. 61.704. ELIGIBLE LOANS. (a) The coordinating board may provide repayment assistance for the repayment of any student loan for education at an institution of higher education, including loans for undergraduate education, received by a teacher through any lender.

(b) The coordinating board may not provide repayment assistance for a student loan that is in default at the time of the teacher's application.

Sec. 61.705. REPAYMENT. (a) The coordinating board shall deliver any repayment made under this subchapter in a lump sum payable to the lender and the teacher, in accordance with federal law.

(b) A repayment made under this subchapter may be applied only to the principal amount of the loan.

Sec. 61.706. ADVISORY COMMITTEES. The coordinating board may appoint advisory committees from outside the board's membership to assist the board in performing its duties under this subchapter.

Sec. 61.707. ACCEPTANCE OF FUNDS. The coordinating board may accept gifts, grants, and donations for the purposes of this subchapter.

Sec. 61.708. RULES. (a) The coordinating board shall adopt rules necessary for the administration of this subchapter, including a rule that sets a maximum amount of repayment assistance that may be received by a teacher in one year.

(b) The coordinating board shall distribute a copy of the rules adopted under this section and pertinent information in this subchapter to:

(1) each institution of higher education that offers a teacher education program;

(2) any other appropriate state agency; and

(3) any appropriate professional association.

SECTION 1.30. Subsection (b), Section 62.021, Education Code, is amended to read as follows:

(b) Each governing board participating in the distribution of funds as described in this section may expend such funds without limitation, and as such governing board may decide in its sole discretion, for any and all purposes described in Article VII, Section 17, of the Constitution of Texas; provided, however, that for new construction, major repair and rehabilitation projects, and land acquisition projects, such funds may not be expended without the prior approval of the legislature or the approval, review, or endorsement, as applicable, of the Texas Higher Education Coordinating Board, ~~Texas College and University System~~; and provided further that review and approval of major repair and rehabilitation shall apply only to projects in excess of \$600,000 ~~[\$300,000]~~; and provided further that any land acquisition project proposed for coordinating board endorsement within three months of a legislative session shall be automatically referred to the legislature for consideration.

SECTION 1.31. Subdivision (14), Section 61.003, Education Code, is amended to read as follows:

(14) "Educational and general buildings and facilities" means buildings and facilities essential to or commonly associated with teaching, research, or the preservation of knowledge, including the proportional share used for those activities in any building or facility used jointly with auxiliary enterprises. Excluded are auxiliary enterprise buildings and facilities, including but not limited to dormitories, cafeterias, student union buildings, stadiums, and alumni centers, used solely for those purposes.

SECTION 1.32. Subsection (b), Section 130.086, Education Code, is amended to read as follows:

(b) Such branch campuses, centers, or extension facilities shall be within the role and scope of the junior college as determined by the Texas Higher Education Coordinating Board~~[-Texas College and University System]~~. The coordinating board may not adopt rules or role and scope limitations that would have the effect of prohibiting a public junior college district from:

(1) establishing and operating a branch campus, center, or extension facility located outside the boundaries of the junior college district; or

(2) offering any course outside the boundaries of the junior college district.

ARTICLE 2. EDUCATION CODE: AMENDMENTS RELATING TO TEXAS OPPORTUNITY PLAN FUND

SECTION 2.01. Section 52.32, Education Code, is amended to read as follows:

Sec. 52.32. **QUALIFICATIONS FOR LOANS.** (a) The board may authorize loans from the Texas Opportunity Plan Fund to qualified students if the applicant:

(1) is a resident of Texas as defined by the board in accordance with Subchapter B, Chapter 54 of this code;

(2) has been accepted for enrollment at any postsecondary educational institution within the State of Texas, public or private, which has been approved by an agency of the United States government for the purpose of guaranteeing the maker of such loans against loss due to the death, disability, or default of the borrower. If the postsecondary institution that the student has been accepted to attend was not a participating institution as defined in Section 52.31 of this code on May 1, 1985, the applicant must provide evidence that he is unable to obtain a guaranteed student loan from a commercial lender except as provided by Subsection (b) of this section;

(3) has established that he has insufficient resources to finance his college education;

(4) has been recommended by reputable persons in his home community; and

(5) has complied with other requirements established by the rules and regulations adopted by the board in conformity with this chapter.

(b) If a loan applicant is enrolled at a proprietary school in a degree program that is approved by the board, the applicant is not required to provide evidence that he is unable to obtain a guaranteed student loan from a commercial lender under Subsection (a)(2) of this section.

(c) In no event may a higher standard of academic performance be required of an applicant than the minimum standard required for enrollment in the participating institution. The student must be meeting the minimum academic requirements of the institution in the semester any loan is made.

(d) ~~(c)~~ It is the legislature's intent that the Texas Opportunity Plan Fund provide loan assistance to an applicant who:

(1) is ineligible for assistance under federal guidelines; and

(2) has insufficient resources to finance a college education.

SECTION 2.02. Subchapter C, Chapter 52, Education Code, is amended by adding Section 52.321 to read as follows:

Sec. 52.321. **STANDARDS CONCERNING ABILITY TO REPAY CERTAIN LOANS.** In establishing requirements to be met by applicants for student loans authorized by the board under this chapter, the board may not establish standards relating to demonstration of ability to repay a federally insured student loan that are stricter for a certain class of applicants than for other applicants, except in cases where the applicant attends a school with a loan default rate of 15 percent or more.

SECTION 2.03. Section 52.40, Education Code, is amended to read as follows:

Sec. 52.40. CANCELLATION OF CERTAIN LOAN REPAYMENTS. [(a)] The board may cancel the repayment of a loan received by a student who earns a professional doctor of medicine degree or a doctorate of psychology degree and who is employed by the Texas Youth Commission, Texas Department of Human Services, Texas Department of Corrections, or Texas Department of Mental Health and Mental Retardation prior to the date on which repayment of the loan is to commence:]

(a) The board may cancel the repayment of a loan received by a student who earns a doctorate of psychology degree and who is employed by the Texas Youth Commission, Texas Department of Human Services [Resources], Texas Department of Corrections, or Texas Department of Mental Health and Mental Retardation prior to the date on which repayment of the loan is to commence.

(b) [The board shall cancel the repayment of a loan received by a student after his or her entry to an accredited teacher education program if the student earns certification in an area designated by the State Board of Education to be an area or field of acute teacher shortage and the student teaches in that area or field in the elementary and secondary schools of Texas. Only those students whose loans have never been in default shall be eligible to participate in the provisions of this section:

[(c)] A person who wishes to apply for a loan cancellation shall enter into a contract with the board which contains the following provisions:

(1) No payment is due from the person as long as he is employed by one of the designated state agencies [or teaches in an elementary or secondary school of Texas in an area or field designated by the State Board of Education].

(2) Half of the total amount of the loan plus interest due is to be cancelled after two years of the appropriate service, and the remainder is to be cancelled after two additional years of service.

(3) Repayment of the loan and interest is to commence immediately if the person leaves the designated state agency [or ceases teaching in a designated area or field] before the expiration of two years; repayment of one-half of the loan and interest is to commence immediately if the person leaves the designated state agency [or ceases teaching in a designated area or field] after completing two years service; upon completion of four years service, the loan, principal and interest, shall be fully cancelled.

(4) Interest continues to accrue until the loan is cancelled or repaid.

[(c)] [(d)] Loans and interest on loans may be cancelled under the Texas Opportunity Plan Fund in any year in a total amount not to exceed the amount appropriated for that purpose from general revenue funds.

[(d)] [(e)] The board shall publicize the availability of the loan cancellation procedures provided in this section at all institutions of higher education which offer [a teacher education program or] graduate programs in psychology.

SECTION 2.04. Section 52.52, Education Code, is amended to read as follows:

Sec. 52.52. CONTRACTS. (a) Except as provided by this section, in [fn] achieving the goals outlined in this chapter and the performance of functions assigned to it, the board may contract with any other state governmental agency as authorized by law, with any agency of the United States, and with corporations, associations, partnerships, and individuals.

(b) Not later than January 1, 1990, the board shall amend its contract with the United States Department of Education that requires the board to file suit to obtain judgment on a defaulted loan before filing a claim on the defaulted loan with the guarantor and begin to file suit on each defaulted loan according to the following schedule:

(1) on or before September 1, 1991, the board shall file a claim with the guarantor on the oldest one-third of the loans that the board is currently pursuing through litigation, as specified by the board under Subsection (c)(1) of this section;

(2) on or before September 1, 1993, the board shall file a claim with the guarantor on the middle one-third of the loans that the board is currently pursuing through litigation, as specified by the board under Subsection (c)(1) of this section;

(3) on or before September 1, 1995, the board shall file a claim with the guarantor on all remaining loans that the board is pursuing through litigation, as specified by the board under Subsection (c)(1) of this section.

(c) The board shall:

(1) describe which loans are covered under Subdivisions (1), (2), and (3) of Subsection (b) of this section, according to the date on which the board began litigation on each loan; and

(2) include that description in the contract with the United States Department of Education as amended under Subsection (b) of this section.

(d) The board may not subsequently make an agreement with a guarantor concerning any insured student loans the board authorizes that requires the board to file suit or take other action to collect on a defaulted loan if the guarantor does not impose that requirement on other lenders making the same kind of insured student loans.

SECTION 2.05. Subchapter D, Chapter 52, Education Code, is amended by adding Section 52.521 to read as follows:

Sec. 52.521. FILING OF CLAIMS ON LOANS IN DEFAULT. (a) The board shall file a claim with the appropriate guarantor on an insured loan in default as soon as it is practicable to do so in accordance with the guarantor's rules.

(b) Funds obtained as a result of any claims, including claims filed on loans in default that have been litigated as provided under a contract with the United States Department of Education, filed with a guarantor shall be deposited in the Texas Opportunity Plan Fund in the appropriate account to be used for making student loans.

SECTION 2.06. Subchapter D, Chapter 52, Education Code, is amended by adding Section 52.541 to read as follows:

Sec. 52.541. ACCOUNTS FOR LOAN PROGRAMS. (a) The board shall establish separate accounting within the Texas Opportunity Plan Fund for each of its existing loan programs, including accounting for the federally insured loans that are insured by the United States Department of Education, the federally insured loans that are insured by the United States Department of Health and Human Services, and each loan program that consists of loans insured by the State of Texas.

(b) If a loan program is established after September 1, 1989, the board shall establish separate accounting within the Texas Opportunity Plan Fund for that loan program.

(c) The board may transfer funds among the separate accounts established under this section if:

(1) the transfer is approved by the board and is necessary to administer the Texas Opportunity Plan Fund; and

(2) the reason for the transfer is documented in the accounting of the funds.

SECTION 2.07. Section 52.56, Education Code, is amended by adding Subsection (c) to read as follows:

(c) The board shall include in its annual report under this section a report of the loans authorized by the board that are in default. The board shall report the data concerning any loans in default in a form that is similar to the reporting of loan

default data by the Texas Guaranteed Student Loan Corporation for a commercial lender participating in the student loan program under Chapter 57 of this code.

SECTION 2.08. Section 54.064(b), Education Code, is amended to read as follows:

(b) Beginning with the 1989-1990 academic year, the total number of students at an institution paying resident tuition under this section for a particular semester may not exceed five ~~[two]~~ percent of the total number of students registered at the institution for the same semester of the preceding academic year.

SECTION 2.09. Subsection (b), Section 56.033, Education Code, is amended to read as follows:

(b) Of the funds set aside under this section by an institution other than a public community or junior college, not less [more] than 90 ~~[80]~~ percent shall be used for Texas Public Educational Grants and not more than 10 ~~[less than 20]~~ percent shall be used for emergency loans under Subchapter D of this chapter.

ARTICLE 3. AMENDMENTS TO STATUTES OTHER THAN EDUCATION CODE

SECTION 3.01. Subsection (b), Section 4, Texas State College and University Employees Uniform Insurance Benefits Act (Article 3.50-3, Vernon's Texas Insurance Code), is amended to read as follows:

(b) The administrative council shall be selected, serve, and perform duties as hereinafter described:

(1) Selection. (A) Acting as a group, the presidents of the three ~~[six]~~ senior level institutions having the highest number of employees as defined in this Act, based on the most current statistical reports of the Texas Higher Education Coordinating Board, ~~[Texas College and University System,]~~ shall with prior consultation with all other presidents of all senior level institutions covered by this Act~~;~~ designate two ~~[three]~~ representatives to serve as members of the council who are~~[- The persons so designated shall be]~~ employees as defined in this Act of ~~[and may be from]~~ any of the senior level institutions.

(B) Acting as a group, the presidents of the three junior level institutions or technical institutions having the highest number of employees as defined in this Act, based on the most current statistical reports of the Texas Higher Education Coordinating Board, ~~[Texas College and University System,]~~ shall with prior consultation with all other presidents of all junior level institutions covered by this Act~~;~~ designate two ~~[three]~~ representatives to serve as members of the council who are~~[- The persons so designated shall be]~~ employees as defined in this Act of ~~[and may be from]~~ any of the junior level institutions or technical institutions.

(C) The administrative council's advisory committee shall select two persons to serve as members of the council who are employees as defined in this Act of institutions of higher education [commissioner of higher education shall appoint three members of the council, which members shall not be subject to the restrictions in Section 4(b)(2)].

(D) The governor shall appoint three persons to serve as members of the council who are knowledgeable about the actuarial principles necessary to analyze higher education insurance plans. A person appointed by the governor under this paragraph is not required to be an employee as defined in this Act.

(2) Qualifications of members. The persons designated as members of the administrative council must~~[- in addition to being employees as defined in this Act, shall]~~ have demonstrable qualifications for the administration of the program established by this Act.

(3) Terms of membership. (A) All ~~[Except for initial appointments, all]~~ appointments shall serve for a period of six years each except for appointments

to fill vacancies occurring in cases of incompleting terms, in which case the appointment shall be for the remainder of the unexpired term.

(B) ~~[The administrative council initially shall be established as follows:~~

~~[(i) Of the three appointments made by the presidents of senior level institutions as described in Subsection (b)(1)(A) of this section, one of the members so appointed shall serve for a period of six years, one shall serve for a period of four years, and one shall serve for a period of two years from the effective date of this Act. Thereafter terms of all appointees shall be for six years:~~

~~[(ii) Of the three appointments made by the presidents of the junior level institutions or technical institutions as described in this Act, one of these appointments shall be for a period of six years, one shall be for a period of four years, and one shall be for a period of two years from the effective date of this Act. Thereafter terms of all appointees shall be for six years:~~

~~[(iii) The members thus appointed shall annually, at the first organizational meeting of the administrative council, draw lots for terms of office as described above in this Act and shall] elect a chairman and other such officers as may be necessary. [Thereafter, elections shall be held annually for the chairmanship and other such offices.]~~

(4) Duties. The administrative council shall:

(A) determine basic coverage standards which shall be comparable to those commonly provided in private industry and those provided employees of other agencies of the State of Texas under the Texas Employees Uniform Group Insurance Benefits Act, after considering recommendations of the advisory committee. In determining these standards, the council may provide reasonable flexibility for institutions to design a plan around existing local conditions.

(B) require each institution to include in its respective bid documents for the various coverages a provision calling for each bidder to identify its administrative cost as a distinguishable figure and to enumerate what services the bidder will render in exchange for the administrative costs so identified.

(C) determine basic procedural and administrative practices for insurance coverages to be provided employees covered under the provisions of this Act, after considering recommendations of the advisory committee.

(D) determine if existing institutional programs meet, equate to, or exceed standards for such basic coverages. If so, such programs may be continued in accordance with existing contractual arrangements between those institutions and their carrier or carriers, provided, however, that each program so continued shall be submitted by the institution for competitive bidding within standards established by the administrative council at least once every six years. It is further provided that:

(i) The State Board of Insurance shall provide, by request of the institution, a list of all carriers authorized to do business in the State of Texas and who will be eligible to bid on the insurance coverage or coverages provided in this Act.

(ii) The State Board of Insurance shall, upon request by the institution, examine and evaluate the bidding contracts and certify their actuarial soundness to the institution within 15 days from the date of request.

(iii) The institution is not required to select the lowest bid, but shall take into consideration other factors such as ability to service contracts, past experience, financial stability, and other relevant criteria.

Should the institution select a carrier whose bid differs from that advertised, such deviation shall be reported to the administrative council and the reasons for such deviation shall be fully justified and recorded in the minutes of the next meeting of the administrative council.

(iv) The institution shall select and contract for services performed by health maintenance organizations that are approved by the federal government, if available, or by the State of Texas, if available, to offer health-care services to eligible employees and retired persons in a specific area of the state. Eligible employees and retired persons may participate in a selected health maintenance organization in lieu of participation in the health insurance benefits under this Act, and the employer contributions provided by Section 13 of this Act for health-care coverage shall be paid to the selected health maintenance organizations on behalf of the participants. A health maintenance organization that has been approved to provide health-care services to employees and retired persons of the state under the Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code) is qualified upon proper application to the institution to provide similar services to eligible employees and retired persons of any institution or agency under this Act located in the same area of the state. More stringent requirements may not be imposed on health maintenance organizations under this Act than are imposed by the state or by the federal government.

~~(E) [determine those institutions whose programs contain deficiencies with regard to the basic standards, administrative costs, and practices provided for under this Act. Where such program deficiencies occur, the president of each institution found to be deficient shall be notified of such program deficiencies by the administrative council, which shall also report its action to the commissioner of higher education, and the institution shall be provided a reasonable deadline not to exceed two years for correcting said deficiencies. The affected institution may appeal this determination of deficiency to the Coordinating Board, Texas College and University System. The board shall within 90 days from receipt of the appeal either affirm or reverse the decision of the administrative council. In case of reversal the board shall return the appeal to the administrative council with written instructions for disposition. Where institutions do not correct said deficiencies as directed by the administrative council, the council is hereby authorized and empowered to direct the institution to establish such plans as determined by the council, and to report its action to the commissioner of higher education. If such plans are not established within a reasonable time period not to exceed six months from date of notification, the council shall notify the state comptroller of public accounts, who shall withhold state insurance premium matching funds from the affected institutions until notified by the administrative council that the deficiencies have been corrected. These notifications to the state comptroller shall be reported to the commissioner of higher education.]~~

~~[(F)]~~ provide that the governing boards of two or more institutions of higher education may procure one or more group contracts with any insurance company or companies authorized to do business in this state, insuring the employees of each participating institution. The purpose of such authorization shall be to provide institutions of higher education with the ability to obtain the benefits of economy and/or improved coverages for their employees which may occur through increased purchasing economics for larger groups of employees. All contracts for basic coverages negotiated from the effective date of this Act shall be in compliance with basic coverage standards, rules, and regulations of the administrative council promulgated pursuant to this Act. Each governing board may provide such additional or optional insurance programs and coverages as it deems desirable for its employees.

(F) ~~(G)~~ adopt rules and regulations consistent with the provisions of this Act and its purpose as it deems necessary to carry out the statutory responsibilities.

(G) ~~(H)~~ require that procedures be established by each institution to allow each covered employee to obtain prompt action regarding claims pertaining to insurance provided under this Act.

(H) ~~(I)~~ publish such additional goals, guidelines, and surveys as are necessary to assist covered institutions in providing their employees with effective benefits programs.

(I) ~~(J)~~ develop policies, practices, and procedures as necessary in accordance with provisions of applicable statutes to provide for greater uniformity in the administration of retirement annuity insurance programs available to employees of Texas state colleges and universities through the Optional Retirement Program, Chapter 830, Government Code [Article 51.351 et seq., Texas Education Code, as amended], and tax sheltered annuity programs as provided in Chapter 22, Acts of the 57th Legislature, 3rd Called Session, 1962, as amended (Article 6228a-5, Vernon's Texas Civil Statutes).

(J) ~~(K)~~ establish rules, regulations, and procedures for preparation and review of the annual reports of the institutions as further provided for under Section 6 of the Act.

SECTION 3.02. The Texas State College and University Employees Uniform Insurance Benefits Act (Article 3.50-3, Vernon's Texas Insurance Code) is amended by adding Section 4A to read as follows:

Sec. 4A. BID PROCEDURES AND ENROLLMENT REPORTING FORMAT. (a) The executive secretary with staff assistance and advice from technical consultants, as needed, shall:

(1) develop uniform bid specifications and a standard format for the reporting of insurance enrollment data to be used by institutions as prescribed by this section; and

(2) submit the bid specifications and reporting format to the administrative council for review and approval.

(b) The administrative council by rule shall adopt the bid specifications and reporting format after the council is satisfied with the specifications and format.

(c) Each institution with a total enrollment in insurance plans under this Act of fewer than 500 must use the bid specifications and reporting format.

(d) Each institution with a total enrollment in insurance plans under this Act of 500 or more may use the bid specifications and reporting format.

(e) The administrative council may require an institution to use the bid specifications and reporting format if:

(1) an institution's total enrollment in insurance plans under this Act is not fewer than 500 or more than 10,000; and

(2) the administrative council determines by use of criteria adopted by rule under this section that the institution needs to use the bid specifications and reporting format to comply with basic coverage standards and rules adopted by the administrative council under this Act.

(f) The administrative council by rule shall adopt criteria to determine whether an institution will be required under Subsection (e) of this section to use the bid specifications and reporting format adopted under this section.

SECTION 3.03. The Texas State College and University Employees Uniform Insurance Benefits Act (Article 3.50-3, Vernon's Texas Insurance Code) is amended by adding Section 4B to read as follows:

Sec. 4B. CONTRACT REVIEW; CORRECTION OF DEFICIENCIES. (a) Each institution shall submit a copy of its contract for insurance coverage and its benefits report to the executive secretary on or before the 30th day before the effective date of the contract.

(b) The administrative council shall:

(1) review each institution's contract and benefits report; and

(2) determine whether the institution's insurance program contains any deficiencies concerning the basic coverage standards, administrative costs, and practices provided under this Act.

(c) If the administrative council determines that an institution's insurance program does not comply with the council's rules or standards, the council shall:

(1) notify the president of the institution and provide the institution not more than two years to comply with the council's rules and standards; and

(2) report its action to the commissioner of higher education.

(d) If an institution's insurance program is not in compliance with the council's rules and standards, the executive secretary shall report the compliance problem to an appropriate faculty or staff body of the affected institution such as a faculty senate or council.

(e) The affected institution may appeal the administrative council's determination of noncompliance to the Texas Higher Education Coordinating Board. The coordinating board shall affirm or reverse the administrative council's decision not later than the 90th day after the receipt of the appeal. If the coordinating board reverses the council's decision, the board shall return the appeal to the council with written instructions for disposition.

(f) If an institution does not comply with the council's rules and standards as directed by the administrative council, the council may notify the institution to establish the plans the council determines are necessary to address the problem and the council shall report its action to the commissioner of higher education. If the plans are not established by the institution within six months after the date of notification, the council shall notify the state comptroller of public accounts and report its action to the commissioner of higher education. The comptroller shall withhold state insurance premium matching funds from the affected institution until the administrative council notifies the comptroller that the compliance problem has been corrected.

(g) Each contract for insurance coverage entered into by an institution must include a provision that if the administrative council finds a contract is not in compliance with the basic coverage standards and rules adopted by the administrative council under this Act, the insurance carrier and the institution must negotiate and attempt to resolve the problem. The existing contract remains in effect until that contract can be amended to correct the problem.

(h) A member of the administrative council selected from an institution of higher education may not participate in a decision concerning that institution's insurance program compliance with basic coverage standards and rules adopted by the administrative council under this Act.

SECTION 3.04. The Texas State College and University Employees Uniform Insurance Benefits Act (Article 3.50-3, Vernon's Texas Insurance Code) is amended by adding Section 15A to read as follows:

Sec. 15A. AUDITS; REPORTING TO AUDITOR OF INAPPROPRIATE USE OF FUNDS. (a) The state auditor shall conduct periodic audits of each institution's insurance program to verify that each person enrolled in the insurance program is eligible for the program benefits.

(b) The executive secretary shall notify the state auditor if the executive secretary becomes aware of any inappropriate expenditure of insurance program funds.

SECTION 3.05. Chapter 348, Acts of the 63rd Legislature, Regular Session, 1973 (Article 4498c, Vernon's Texas Civil Statutes), is amended by amending Section 1 and adding Sections 1b and 1c to read as follows:

Sec. 1. There is hereby established and created the State ~~[Rural]~~ Medical Education Board, which shall have the general powers and duties authorized and imposed by the provisions of this Act. The State Medical Education Board is administratively attached to the Texas Higher Education Coordinating Board. The coordinating board shall provide the staff necessary for the State Medical Education Board to perform its duties. The State Medical Education Board shall adopt rules to carry out this Act.

Sec. 1b. This Act may be cited as the State Medical Education Act.

Sec. 1c. In this Act, "Board" means the State Medical Education Board.

SECTION 3.06. Sections 2, 14, and 17, Chapter 348, Acts of the 63rd Legislature, Regular Session, 1973 (Article 4498c, Vernon's Texas Civil Statutes), are amended to read as follows:

Sec. 2. The ~~[State Rural Medical Education]~~ Board shall consist of six ~~[(6)]~~ members, who shall be appointed by the Governor with the advice and consent of the Senate, and who shall have the following qualifications: Three ~~[(3)]~~ of the members shall be legally qualified practicing physicians, who shall have had not less than five ~~[(5)]~~ years experience in the actual practice of medicine within the State of Texas in rural areas as defined by this Act, of good professional standing and graduates of recognized medical colleges; three ~~[(3)]~~ of whose members shall consist of citizens of this State who have maintained residence for a period of not less than five ~~[(5)]~~ years in a rural area as defined by this Act.

The terms of office of members of the ~~[said]~~ Board shall be for six ~~[(6)]~~ years ~~[except the terms of office of members appointed to the initial Board shall be two for two years, two for four years and two for six years. The initial appointments shall be made to insure that there shall always be an equal number of said Board members with the same term of both qualifications as described above].~~ Any vacancy in an unexpired term shall be filled by appointment of the Governor with the advice and consent of the Senate for the unexpired term. The members of the ~~[State Rural Medical Education]~~ Board shall qualify by taking a Constitutional Oath of office before an officer authorized to administer oaths with this State, and, upon presentation of such oath of office, together with a certificate of their appointment, the Secretary of State shall issue commissions to them~~[- which shall be evidence of their authority to act as such].~~

Sec. 14. (a) The Board shall collect any payments due from a loan recipient under this Act. The Attorney General shall make those collections only if the loan recipient defaults on making those payments.

(b) Upon any default as provided for herein the Board shall turn the same over to the Attorney General for prosecution and suit for the remaining sum shall be instituted by the Attorney General, or any county or district attorney acting for him, in the county of the person's residence, the county in which is located the institution at which the person was last enrolled, or in Travis County, unless the Attorney General finds reasonable justification for delaying suit and so advises the Board in writing.

Sec. 17. The Board may accept gifts, grants or donations of real or personal property from any individual, group, association, or corporation or the United States, subject to limitations or conditions set by law. The gifts, grants, or donations of money shall be deposited in the general revenue ~~[Texas Rural Medical Education Board]~~ fund, separately accounted for, and expended in accordance with the specific purposes for which given and under such conditions as are imposed by the donor and as provided by law.

SECTION 3.07. Section 13.09, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 13.09. APPLICATION. The state agencies subject to this article are:

(1) the Texas Department of Mental Health and Mental Retardation;

- (2) the Texas Department of Human Services; [and]
- (3) the Texas Department of Corrections; and
- (4) the Texas Higher Education Coordinating Board.

**ARTICLE 4. REPEALER; TRANSITION; MISCELLANEOUS
PROVISIONS**

SECTION 4.01. The following are repealed:

- (1) Sections 61.051(i), 61.538, and 160.041, Education Code;
- (2) Subchapter C of Chapter 54, and Chapter 60, Education Code; and
- (3) Sections 1a, 3, 4, 5, 6, 7A, 15, and 19, Chapter 348, Acts of the 63rd Legislature, Regular Session, 1973 (Article 4498c, Vernon's Texas Civil Statutes).

SECTION 4.02. (a) The changes in law made by Sections 1.02 and 1.03 of this Act apply only to appointments to the Texas Higher Education Coordinating Board made on or after the effective date of this Act.

(b) The first equal employment opportunity policy statement required to be filed under Section 61.028, Education Code, as amended by this Act, must be filed before November 1, 1989.

(c) Under Section 61.0511, Education Code, as added by this Act:

(1) a public senior college or university that has developed a role and mission statement before the effective date of this Act shall revise its role and mission statement as necessary to reflect the teaching, research, and public service missions of higher education, in accordance with a schedule developed by the coordinating board; and

(2) a public senior college or university that does not have a role and mission statement developed before the effective date of this Act must develop a role and mission statement on or before June 1, 1991, that reflects the teaching, research, and public service missions of higher education.

(d) The rights and duties under a contract to cancel loan repayments entered into before the effective date of this Act by an individual with the Texas Higher Education Coordinating Board under Subchapter C of Chapter 54, or Chapter 60, Education Code, are not affected by the repeal of those provisions by this Act, and those provisions concerning such contracts are continued in effect for this purpose.

(e) Not later than September 1, 1990, the Texas Higher Education Coordinating Board shall file the initial policies established under Section 61.0571, Education Code, as added by this Act, with the State Purchasing and General Services Commission and the Texas Department of Commerce.

SECTION 4.03. The changes in law made by Sections 2.01 and 2.02 of this Act apply only to an application for a loan submitted on or after the effective date of this Act.

SECTION 4.04. (a) This Act does not affect the loan obligations of recipients of loans made by the State Rural Medical Education Board.

(b) The continuing administrative duties of the State Rural Medical Education Board are duties of the State Medical Education Board. Current members on the State Rural Medical Education Board shall serve out their current terms on the State Medical Education Board.

(c) The State Medical Education Board shall be substituted for and acts in the place of the State Rural Medical Education Board regarding all loan contracts and assumes all powers, duties, and rights of the State Rural Medical Education Board regarding those contracts.

(d) Funds appropriated to the State Rural Medical Education Board are transferred from that board to the State Medical Education Board.

SECTION 4.05. (a) The Texas State College and University Employees Uniform Insurance Benefits Act (Article 3.50-3, Vernon's Texas Insurance Code), as amended by this Act, applies only to contracts entered into or renewed and bid

specifications and insurance enrollment reporting formats used by institutions on or after the effective date of this Act.

(b) The administrative council under the Texas State College and University Employees Uniform Insurance Benefits Act (Article 3.50-3, Vernon's Texas Insurance Code) shall study, through contract with consultants or a technical advisory committee:

(1) whether the individual health insurance programs at public higher education institutions should be combined; and

(2) what may be the most cost-effective and advantageous method of combining health insurance programs for those institutions.

(c) The study authorized under Subsection (b) of this section may include an analysis of:

(1) the feasibility of the multiple option insurance concept in which one insurance carrier provides an indemnity plan, health maintenance organization, and preferred provider organization to an institution or a group of institutions; and

(2) the risks and benefits of self-insurance programs.

(d) Not later than February 1, 1991, the administrative council shall submit to the legislature a report and its recommendations concerning the results of the study of the health insurance programs at public institutions of higher education conducted under this section.

(e) Not later than October 1, 1989, the administrative council's advisory committee shall appoint one member who is an employee of an institution of higher education and the governor shall appoint two members with actuarial experience to the administrative council as prescribed by Paragraphs (C) and (D), Subdivision (1), Subsection (b), Section 4, Texas State College and University Employees Uniform Insurance Benefits Act (Article 3.50-3, Vernon's Texas Insurance Code), as amended by this Act. The terms of the three members appointed under this subsection expire on August 31, 1995. The three members of the administrative council whose terms expire August 31, 1989, shall continue to serve on the council until the three new members begin their terms as provided by this subsection.

(f) Three new members shall be appointed to the administrative council for terms that begin on September 1, 1991, and expire on August 31, 1997. Those appointees shall include one member who is an employee of a public senior college or university, one member who is an employee of a public junior college or public technical institute, and one member with actuarial experience, appointed as prescribed by Paragraphs (A), (B), and (D), Subdivision (1), Subsection (b), Section 4, Texas State College and University Employees Insurance Benefits Act (Article 3.50-3, Vernon's Texas Insurance Code), as amended by this Act.

(g) Three new members shall be appointed to the administrative council for terms that begin on September 1, 1993, and expire on August 31, 1999. Those appointees shall include one member who is an employee of a public senior college or university, one member who is an employee of a public junior college or public technical institute, and one member who is an employee of an institution of higher education appointed by the administrative council's advisory committee, as prescribed by Paragraphs (A), (B), and (C), Subdivision (1), Subsection (b), Section 4, Texas State College and University Employees Insurance Benefits Act (Article 3.50-3, Vernon's Texas Insurance Code), as amended by this Act.

(h) Except as provided by Subsection (e) of this section, a member of the administrative council who is serving on the council on the effective date of this Act serves until the member's term expires.

(i) Successors to the appointees appointed to the administrative council under this section serve for six-year terms.

SECTION 4.06. Notwithstanding Section 13.09, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), as amended by

this Act, and Section 61.033, Education Code, as added by this Act, the competitive cost review provisions, until September 1, 1991, are applicable only to the loan servicing, collections, and litigation functions carried out in the Texas Higher Education Coordinating Board's student loan program established under Chapter 52, Education Code.

SECTION 4.07. This Act takes effect September 1, 1989.

SECTION 4.08. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Floor Amendment No. 1 - Vowell

Amend the C.S.S.B. 457 by striking the number "60.003(7)" on page 24, line 13 and substituting the number "61.003(7)" in its place.

Floor Amendment No. 2 - Vowell

Amend C.S.S.B. 457 by adding the following as SECTION 3.05 and 3.06, renumbering other SECTIONS accordingly, and amending the effective date clause (SECTION 4.07) to provide that SECTION 3.05 takes effect September 1, 1991:

SECTION 3.05. Subsection (a), Section 3, Texas State College and University Employees Uniform Insurance Benefits Act (Article 3.50-3, Vernon's Texas Insurance Code), is amended by amending Subdivision (4) to read as follows:

(4)(A) "Employee" shall mean any person employed by a governing board of a state university, senior or community/junior college, or any other agency of higher education within the meaning and jurisdiction of Chapter 61, Title 3, Texas Education Code:

(i) who retires under the provisions cited in Subsection (a)(2) of this section;

(ii) who receives his compensation for services rendered to a public community/junior college or a senior college, university, or other agency of education within the meaning and jurisdiction of Chapter 61, Title 3, Texas Education Code, on a warrant or check issued pursuant to a payroll certified by an institution or by an elected or duly appointed officer of this state, and who is eligible for participation in the Teacher Retirement System of Texas;

(iii) who receives his compensation for services rendered as provided in this subdivision but is not permitted to be a member of the Teachers Retirement System because he is solely employed by an institution of higher education that as a condition of employment requires the employee to be enrolled as a student in the institution.

SECTION 3.06. The Texas State College and University Employee's Uniform Insurance Benefits Act (Article 3.50-3, Vernon's Texas Insurance Code), is amended by adding Section 11A to read as follows:

Sec. 11A. This section applies to persons who are employed at least 20 hours per week at institutions of higher education but who are not permitted to be members of the Teacher Retirement System of Texas because they are solely employed by an institution of higher education that as a condition of employment requires them to be enrolled as a student in the institution in graduate-level courses. The legislature may provide appropriations to institutions of higher education for the purpose of assisting such employees in purchasing any insurance coverages available under this Act, and the institution of higher education may use any available funds in assisting such employees in purchasing any insurance coverages made available by this Act. Insurance coverages made available to employees covered by this section shall be made available on a year-around basis at a premium rate equal to premiums paid for insurance coverage by other employees, including state contributions, covered by other provisions of the Act.

Floor Amendment No. 3 - Berlanga

Amend C.S.S.B. 457 as follows:

(1) On page 29, line 25, strike "subsection (b)", and substitute "subsections (a) and (b)".

(2) On page 29, line 26, strike "is" and substitute "are".

(3) On page 29, between lines 26 and 27, insert:

(a) Each fiscal year, an eligible institution is entitled to receive an amount allocated in accordance with this section from funds appropriated by Article VII, Section 17(a), of the Constitution of Texas. The comptroller of public accounts shall distribute funds allocated under this subsection only on presentation of a claim and issuance of a warrant in accordance with Section 403.071, Government Code [Article 4357, Revised Statutes]. The comptroller may not issue a warrant from any funds allocated under this subsection before the delivery of goods or services described in Section 17, Article VII, Texas Constitution, except for the payment of principal or interest on bonds or notes. The allocation of funds under this subsection is made in accordance with an equitable formula consisting of the following elements: space deficit, facilities condition, institutional complexity, separate allocation for medical units, and additional allocation for compliance with the Texas Desegregation Plan. The amounts allocated by such formula are as follows:

\$ 2,971,685	[\$ 3,253,087]	East Texas State University at Texarkana;
\$ 7,125,680	[\$ 7,172,517]	University at Orange and Lamar University at Port Arthur;
\$ 1,645,885	[\$ 1,693,414]	Midwestern State University;
\$11,444,067	[\$10,949,820]	University of North Texas;
\$ 3,196,287	[\$ 3,106,426]	Pan American University including Pan American University at Brownsville;
\$ 5,152,124	[\$ 5,146,404]	Stephen F. Austin State University;
	\$ 2,166,667	Texas College of Osteopathic Medicine;
\$19,724,411	[\$19,461,584]	Texas State University System Administration and the following component institutions:
		Angelo State University;
		Sam Houston State University;
		Southwest Texas State University;
		Sul Ross State University including Uvalde Study Center;
\$ 6,596,436	[\$ 6,849,730]	Texas Southern University (includes allocation of \$2,700,000 for compliance with Texas Desegregation Plan);
\$10,538,296	[\$10,696,291]	Texas Tech University;
	\$ 4,333,333	Texas Tech University Health Sciences Center;
\$ 3,583,869	[\$ 3,586,150]	Texas Woman's University;
\$15,799,996	[\$15,717,588]	University of Houston System Administration and the following component institutions:
		University of Houston—University Park;
		University of Houston—Victoria;
		University of Houston—Clear Lake;
		University of Houston—Downtown;
\$ 3,636,316	[\$ 3,603,059]	University System of South Texas System Administration and the following component institutions:
		Corpus Christi State University;

Laredo State University;
Texas A&I University; and
West Texas State University.

\$ 2,084,948 [~~\$ 2,263,930~~]

(4) On page 58, strike line 7, and insert:

“SECTION 4.07. (a) This Act takes effect September 1, 1989.

(b) Section 62.021(a), Education Code, as amended by this Act, takes effect September 1, 1990.”

Floor Amendment No. 4 - Uher

Amend C.S.S.B. 457 as follows:

(1) On page 38, between lines 10 and 11, insert:

Section 2.08. Chapter 52, Education Code, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. COLLEGE SAVINGS BONDS

Sec. 52.61. DEFINITIONS. In this subchapter:

(1) “College savings bond” means a general obligation bond issued by the board under Article III, Section 50b-2, of the Texas Constitution.

(2) “Postsecondary educational institution” includes an institution of higher education as that term is defined by Section 61.003 of this code and private institutions approved for purposes of the tuition equalization program under Subchapter F of Chapter 61 of this code.

Sec. 52.62. ESTABLISHMENT OF SAVINGS BONDS PROGRAM; USE OF BOND PROCEEDS. (a) The college savings bonds program is established to provide the public with a method of saving that encourages enrollment at postsecondary educational institutions.

(b) The college savings bonds issued by the board under this subchapter are part of the Texas opportunity plan fund, and the proceeds from the bonds shall be invested as provided by Subchapter B of this chapter and may be used for student loans as provided by Subchapter C of this chapter.

(c) The proceeds from the college savings bonds issued under this subchapter may be used for the costs associated with the issuance of the bonds, including the cost of marketing the bonds.

Sec. 52.63. PUBLIC PURPOSE. The legislature finds and declares that this subchapter:

(1) by authorizing the issuance of general obligation bonds as college savings bonds provides the public with a method of saving that encourages enrollment at postsecondary educational institutions; and

(2) by encouraging enrollment at postsecondary educational institutions, this subchapter promotes the public welfare and economic development of this state and, consequently, serves an important public purpose.

Sec. 52.64. ADMINISTRATION OF SAVINGS BONDS PROGRAM; RULES. (a) The board shall administer the college savings bonds program.

(b) The board may adopt any rules necessary to administer this subchapter.

Sec. 52.65. EFFECT ON OTHER FINANCIAL AID. In determining the eligibility of a student for a scholarship, grant, or other monetary assistance awarded by a state agency, an amount of \$10,000 or less in proceeds from savings bonds, including principal and accumulated interest, may not be considered in determining the amount or form of financial assistance to provide to the student.

Sec. 52.66. AUTHORITY TO ISSUE. (a) The board shall issue and sell college savings bonds in a total aggregate amount not exceeding \$75 million authorized under Article III, Section 50b-2, of the Texas Constitution.

(b) The college savings bonds may be sold in the manner and in the amounts determined by the board and as provided by this subchapter.

(c) College savings bonds may be sold at a negotiated sale if the board determines that a negotiated sale will result in either a more efficient and economic sale of the college savings bonds or greater access to the college savings bonds by residents of this state.

(d) If any college savings bonds are sold at a negotiated sale, the underwriter to whom those bonds are sold must, in the judgment of the board, have sufficient capability to make a broad distribution of those bonds to investors resident in this state.

Sec. 52.67. SECURITY OF SAVINGS BONDS; GENERAL OBLIGATION. The college savings bonds authorized under Article III, Section 50b-2, of the Texas Constitution and issued in accordance with this subchapter are general obligations of this state.

Sec. 52.68. TERMS. (a) Savings bonds issued under this subchapter must mature serially or otherwise not more than 25 years after they are issued.

(b) The college savings bonds:

(1) must be zero coupon bonds, capital appreciation bonds, compound interest bonds, municipal multiplier bonds, capital accumulator bonds, or a similar type of bond that will encourage the purchaser to hold the bond until maturity; and

(2) must be issued in small denominations of \$1,000 or less at a price the board determines to be the most advantageous reasonably obtainable and that renders the bonds attractive for the purpose of financing the costs of higher education.

(c) The college savings bonds may not be redeemed by the state before maturity.

Sec. 52.69. DETERMINATION OF AGGREGATE PRINCIPAL AMOUNT OF BONDS. The aggregate principal amount of the college savings bonds issued under this subchapter shall be the aggregate of the initial offering prices, not including accrued interest, at which those bonds are offered for sale to the public, including private or negotiated sales, or sold to the initial purchasers in a private placement, without a reduction for an underwriter's discount or fees of a placement agent or other intermediary.

Sec. 52.70. MARKETING AND DISTRIBUTION OF BONDS. (a) The board shall coordinate the marketing and distribution of the college savings bonds.

(b) The board may use its staff to assist in the marketing and distribution of the college savings bonds or may contract with another entity for services to carry out some or all of those duties.

(c) In marketing the college savings bonds, the board shall emphasize the use of those bonds to finance the costs of higher education.

Sec. 52.71. MANDAMUS. The performance of official duties prescribed by this subchapter and Article III, Section 50b-2, of the Texas Constitution, in reference to the payment of the college savings bonds, may be enforced in a court of competent jurisdiction by mandamus or other appropriate proceedings.

Sec. 52.72. REPLACEMENT OF BOND. The board may provide for the replacement of any college savings bond that is mutilated, lost, or destroyed.

Sec. 52.73. APPROVAL AND REGISTRATION. (a) College savings bonds issued by the board and the records relating to their issuance must be submitted to the attorney general for examination as to their validity.

(b) If the attorney general finds that the college savings bonds have been authorized in accordance with law, the attorney general shall approve them, and the comptroller of public accounts shall register the bonds.

(c) Following approval and registration, the college savings bonds are incontestable and are binding obligations according to their terms.

Sec. 52.74. EXEMPTION FROM TAXATION. College savings bonds issued under this subchapter may not be taxed by the state or any of its political subdivisions.

(2) On page 38, line 11, strike "SECTION 2.08" and substitute "SECTION 2.09".

(3) On page 38, line 20, strike "SECTION 2.09" and substitute "SECTION 2.10".

(4) On page 54, between lines 23 and 24, insert:

SECTION 4.04. Section 2.08 of this Act takes effect only if the constitutional amendment proposed by S.J.R. No. 74, 71st Legislature, Regular Session, 1989, is approved by the voters. If that amendment is not approved, Section 2.08 of this Act has no effect.

(5) Renumber existing sections as appropriate.

Floor Amendment No. 5 - Uher

Amend C.S.S.B. 457 as follows:

1) on page 17, line 27 subsection (d) by adding the words "gifts or" between the words "by" and "lease-purchase"; and

2) on page 18, between lines 7 and 8 by adding a new subdivision (3) to read as follows:

(3) This subsection does not apply to gifts, grants, or lease-purchase arrangements intended for on-campus, clinical, or research facilities.

Floor Amendment No. 6 - Vowell

Amend C.S.S.B. 457 by adding an appropriately numbered section to read as follows:

SECTION____. Chapter 357, Acts of the 66th Legislature, Regular Session, 1979 (Article 4413(203), Vernon's Texas Civil Statutes), is amended by adding Section 2A to read as follows:

Sec. 2A. PROVISIONS APPLICABLE TO JUNIOR COLLEGES. (a) On request of the governor, the coordinating board with the advice and assistance of the state auditor shall determine if a condition of gross fiscal mismanagement exists at a public junior college. If the board finds that the condition exists, the governor by proclamation may order the board to act as conservator of the college in accordance with the provisions of this Act. For this purpose, the junior college is considered an agency notwithstanding Section 2 of this Act.

(b) The periodic reports required by Section 10 of this Act shall be filed with the coordinating board.

(c) The board's conservatorship continues until:

(1) the governor issues a proclamation declaring that the condition of gross fiscal mismanagement no longer exists and the conservatorship is dissolved;
or

(2) the coordinating board finds and certifies to the governor that the condition of gross fiscal mismanagement no longer exists, in which case the conservatorship is dissolved.

Floor Amendment No. 7 - Rodriguez

Amend C.S.S.B. 457 by adding an appropriately numbered section to read as follows and by renumbering existing sections as appropriate:

SECTION ____ Chapter 51, Education Code, is amended by adding Subchapter O to read as follows: SUBCHAPTER O. MEDICAL AND HEALTH CARE PROFESSIONS RECRUITMENT FUND

Sec. 51.711. FINDING AND PURPOSE. The legislature finds that women and members of ethnic minorities are underrepresented in programs of health care professions at institutions of higher education. The purpose of this subchapter is to support the recruitment of women and underrepresented ethnic minorities into those programs.

Sec. 51.712. DEFINITIONS. In this subchapter:

(1) "Coordinator" means the commissioner of higher education or his designee.

(2) "Fund" means the medical and health care professions recruitment fund.

(3) "Institution of higher education" has the meaning assigned by Section 61.003 of this code and includes private, nonprofit institutions of higher education accredited by the recognized regional accrediting agency under Section 61.003 of this code and located and authorized to operate in this state. The term does not include private institutions of higher education operated exclusively for sectarian purposes.

(4) "MedPREP" means the medical preparation program.

(5) "Minority group" means black Americans, Mexican Americans and other Americans of Hispanic origin, American Indians, Eskimos, and Aleuts.

(6) "Board" means the Texas Higher Education Coordinating Board.

Sec. 51.713. FUND. (a) The medical and health care professions recruitment fund is created as a special fund in the state treasury. The fund consists of appropriated state funds and gifts, grants, and donations.

(b) The board may solicit and accept gifts, grants, donations, and manpower contributions from local, state, and national colleges and universities, private industry, military commands, other government agencies, local school districts, and summer youth employment and training sponsors.

(c) The board shall adopt rules for the administration of the fund.

Sec. 51.714. USE OF FUND. The commissioner of higher education shall allocate the fund to eligible nonprofit organizations for the purpose of:

(1) establishing or operating for the purpose of: various locations to assist women and minority group members in preparing for a medical or health care profession; and

(2) disseminating information concerning:

(A) educational and career opportunities in medical and health care; and

(B) the fund and programs funded under this subchapter.

Sec. 51.715. ALLOCATION OF FUND. (a) The coordinator shall allocate the fund in accordance with guidelines adopted by the "Texas Higher Education Coordinating Board." The guidelines must ensure that MedPREP programs approved for funding:

(1) use professional volunteers at each level of instruction;

(2) require parental involvement;

(3) coordinate with public school officials to identify and recruit program participants;

(4) coordinate with postsecondary educational institutions;

(5) involve organizations of women and minority group members;
(6) involve participants from grades 9 through 12;
(7) provide demonstrated professional leadership in educational activities for women and minority group members; and

(8) are compatible with state and federal laws governing education.

(b) Preference shall be given to programs that stress the development of medical and applied health professions competence.

(c) In making allocations, the coordinator may solicit advice from public or private organizations working to recruit women and minority group members into medical and applied health careers.

(d) The comptroller of public accounts shall issue warrants drawn on the fund on receipt of vouchers approved by the coordinator.

(e) The board shall adopt rules establishing procedures that an entity must use to apply for funding and account for funds received.

Sec. 51.716. ELIGIBILITY. (a) To be eligible to receive funds under this subchapter, a MedPREP program location:

(1) must be operated by a state accredited institution of higher education;

(2) must qualify for exemption from federal income tax under Section 501, Internal Revenue Code;

(3) may not distribute earnings to a private shareholder or other individual;

(4) must agree to accept at least 70 percent women and minority group students, with not less than 30 percent in either category; and

(5) must agree to cooperate with the coordinator in an annual follow-up of previous participants.

(b) The coordinator shall determine annually which programs meet the requirements of Subsection (a) of this section.

Sec. 51.717. ADVISORY COMMITTEE. (a) A state advisory and oversight committee is established and shall consist of nine members including the commissioner of education, and eight other members reflecting the minority groups served by this program, with:

(1) one person appointed by the governor;

(2) one person appointed by the lieutenant governor;

(3) one person appointed by the speaker;

(4) five persons appointed by the Commissioner of higher education.

(b) A member appointed to the advisory committee serves for a four-year term.

Sec. 51.718. PROGRAM REVIEW. The coordinator shall prepare an annual report accounting for the use of funds under this subchapter and including a follow-up of participants from MedPREP programs from previous years.

Sec. 51.719. APPOINTMENTS TO ADVISORY COMMITTEE. In making initial appointments of public members to the advisory committee, the governor, the lieutenant governor, and the speaker of the house shall each designate one member to serve for a term expiring February 1, 1991, and the coordinator of the Texas Medical preparation program shall designate four members to serve for a term expiring February 1, 1993.

Floor Amendment on Third Reading - Cain

Amend C.S.S.B. 457 by adding an appropriately numbered section and renumbering existing sections as appropriate to read as follows:

Section _____. Subchapter F, Chapter 61, Education Code, is amended by adding Section 61.230 to read as follows:

Sec. 61.230 ANNUAL REPORT. (a) The coordinating board shall include in its annual report a breakdown by ethnicity indicating the percentage of each ethnic

group that received tuition equalization grant money for each academic semester at each institution.

The amendments were read.

Senator Parker moved that the Senate do not concur in the House amendments, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the Conference Committee on S.B. 457 before appointment.

On motion of Senator Johnson and by unanimous consent, the Senate conferees were instructed to not remove from the bill the language found in Sec. 61.0221(b).

The Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Parker, Chairman; Edwards, Barrientos, Caperton and Krier.

SENATE BILL 973 WITH HOUSE AMENDMENTS

Senator Glasgow called S.B. 973 from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Local and Consent Calendars Committee Amendment No. 1 - Guerrero

Amend S.B. 973 as follows:

- (1) On page 4, line 2 strike "except that".
- (2) On page 4, strike lines 3-10.
- (3) On page 6, strike lines 5-11 and substitute the following: "attested copies of those records only as provided by that chapter and rules adopted under that chapter."

Local and Consent Calendars Committee Amendment No. 2 - Patterson

Amend Committee Amendment No. 1 to S.B. 973 to read as follows:

Amend S.B. 973 as follows:

- (1) On page 4, strike lines 1 through 10 and substitute the following: "of Vital Statistics of the Texas Department of Health [~~or by a local registration official~~];"
- (2) On page 6, strike lines 5 through 11 and substitute the following: "attested copies of those records only as provided by that chapter and rules adopted under that chapter."

(3) On page 13, between lines 6 and 7, insert a new section, to be numbered appropriately, to read as follows and renumber subsequent sections appropriately:

SECTION 9. Section 21, Chapter 41, Acts of the 40th Legislature, 1st Called Session, 1927 (Rule 54a, Article 4477, Vernon's Texas Civil Statutes), is amended by adding Subsection (d) to read as follows:

(d) A local registrar shall permit a person to have access to birth or death records in the registrar's custody if, at the time the person requests access, the person or the registrar legibly records in a registration book maintained by the registrar the person's name and home address. The registrar may not otherwise permit access to the records.

The amendments were read.

Senator Glasgow moved that the Senate do not concur in the House amendments, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the Conference Committee on S.B. 973 before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Glasgow, Chairman; Armbrister, Tejada, Leedom and Edwards.

SENATE BILL 1564 WITH HOUSE AMENDMENT

Senator Glasgow called S.B. 1564 from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Local and Consent Calendars Committee Amendment - Rangel

Amend S.B. 1564 as follows:

1. Amend Section 7 to read as follows:

SECTION 7. Section 74.054, Government Code, is amended to read as follows:

Sec. 74.054. JUDGES SUBJECT TO ASSIGNMENT. (a) Except as provided by Subsections ~~[Subsection]~~ (b), (c), and (d), the following judges may be assigned as provided by this chapter by the presiding judge of the administrative region in which the assigned judge resides:

(1) a regular district, constitutional county, or statutory county court judge in this state;

(2) a district judge who is a retiree under Subtitle E or H, Title 110B, Revised Statutes, who has consented to be subject to assignment, and who is on the list maintained by the presiding judge under this chapter; ~~[and]~~

(3) a former district judge or retired or former statutory county court judge who certifies to the presiding judge a willingness to serve and ~~[to comply with the prohibitions relating to the practice of law imposed on a retired judge by Section 44.005, Title 110B, Revised Statutes, and]~~ who is on the list maintained by the presiding judge as required by this chapter; and

(4) a retiree or a former judge whose last judicial office before retirement was justice or judge of the supreme court, the court of criminal appeals, or a court of appeals and who has been assigned by the chief justice of the administrative judicial region in which the retiree or former judge resides for reassignment by the presiding judge of that region to a district or statutory county court in the region.

(b) A regular statutory county court judge ~~[or a retired or former statutory county court judge]~~ may not be assigned to hear a matter pending in a district court outside the county of the judge's residence.

(c) A constitutional county court judge may only be assigned to sit for another constitutional county court judge, and must be a licensed attorney in this state.

(d) A judge may not be assigned as a visiting judge under this chapter if the judge:

(1) is a former or retired statutory county court judge or district judge;

and

(2) has been defeated for reelection to that office.

2. Amend page 12, line 8 by inserting, after “assignment” and before “subject”, the following:

“and subject to the requirements of Section 74.054(d)”

3. Insert new Sections 11, 16, and 23 to read as follows and renumber current Sections 11, 12, 13, and 14 as 12, 13, 14, and 15, Sections 15, 16, 17, 18, 19, and 20 as 17, 18, 19, 20, 21, and 22, and Sections 21 and 22 as 24 and 25:

SECTION 11. Sections 74.061(e) and (f), Government Code, are amended to read as follows:

(e) When a district, constitutional county, or statutory county court judge is assigned under this chapter to a court outside his own district or county, the judge, in addition to all other compensation authorized by law, is entitled to receive his actual expenses in going to and returning from his assignment and his actual living expenses while in the performance of his duties under the assignment. The county in which the duties are performed shall pay the expenses out of the general fund of the county on accounts certified and approved by the presiding judge of the administrative region for that county.

(f) When a district, constitutional county, or statutory county court judge is assigned under this chapter to a court outside his own district or county, the judge, in addition to all other compensation and expenses authorized by law, is entitled to receive a per diem of \$25 for each day or fraction of a day that the judge spends outside his district or county in the performance of his duties under the assignment. The state shall pay the per diem in the same manner that it pays the judge's salary on certificates of approval by the chief justice or the presiding judge of the administrative region in which the judge resides.

SECTION 16. Section 74.121, Government Code, is amended to read as follows:

Sec. 74.121. TRANSFER OF CASES; EXCHANGE OF BENCHES. (a) The judges of constitutional county courts, statutory county courts, justice courts, and small claims courts in a county may transfer cases to and from the dockets of their respective courts, except that a case may not be transferred from one court to another without the consent of the judge of the court to which it is transferred and may not be transferred unless it is within the jurisdiction of the court to which it is transferred. The judges of those courts within a county may exchange benches and courtrooms with each other so that if one is absent, disabled, or disqualified, the other may hold court for him without the necessity of transferring the case. Either judge may hear all or part of a case pending in court and may rule and enter orders on and continue, determine, or render judgment on all or part of the case without the necessity of transferring it to his own docket. A judge may not sit in a case unless it is within the jurisdiction of his court. Each judgment and order shall be entered in the minutes of the court in which the case is pending.

(b) The judge of a statutory county court may transfer a case to the docket of the district court, except that a case may not be transferred without the consent of the judge of the court to which it is being transferred and may not be transferred unless it is within the jurisdiction of the court to which it is transferred.

(c) When a case is transferred from one court to another as provided by this section, all processes, writs, bonds, recognizances, or other obligations issued from the transferring court are returnable to the court to which the case is transferred as if originally issued by that court. The obligees in all bonds and recognizances taken in and for a court from which a case is transferred, and all witnesses summoned to appear before the court to which the case is transferred, are required to appear before the court to which the case is transferred as if originally required to appear before the court to which the transfer is made.

SECTION 23. To the extent of any conflict with this Act, other than with Section 7 of this Act, House Bill 1513, Act of the 71st Legislature, Regular Session, 1989, controls over this Act. To the extent of any conflict with Section 7 of this Act, this Act controls over House Bill 1513, Act of the 71st Legislature, Regular Session, 1989.

The amendment was read.

Senator Glasgow moved that the Senate do not concur in the House amendments, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the Conference Committee on S.B. 1564 before appointment.

On motion of Senator Johnson and by unanimous consent, the Senate conferees were instructed to remove from the bill the provision that prohibits former judges that have been defeated from serving as a visiting judge.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Glasgow, Chairman; Parker, Dickson, Caperton and Bivins.

HOUSE BILL 976 ON THIRD READING

Senator Truan moved to suspend the regular order of business to take up for consideration at this time on its third reading and final passage:

H.B. 976, Relating to duties and liabilities of a real estate broker or real estate salesman concerning an inquiry or disclosure relating to whether the previous occupant of real property had, may have had, has, or may have certain communicable diseases.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

SENATE BILL 1484 WITH HOUSE AMENDMENTS

Senator Whitmire called S.B. 1484 from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Committee Amendment - Martinez

Amend S.B. 1484 by striking all below the enacting clause and substituting in lieu thereof the following:

SECTION 1. Section 85.005, Election Code, is amended by amending Subsection (a) and by adding Subsection (c) to read as follows:

(a) Except as provided by Subsection (c), in [fn] an election in which a county clerk or city secretary is the absentee voting clerk under Section 83.002 or 83.005, absentee voting by personal appearance at the main absentee polling place shall be conducted on the weekdays of the absentee voting period and during the hours that the county clerk's or city secretary's main business office is regularly open for business.

(c) In a county with a population of 100,000 or more, the voting in a primary election or the general election for state and county officers shall be conducted at the main absentee polling place for at least 12 hours on each of the last three weekdays of the absentee voting period, and the voting in a special election ordered by the governor shall be conducted at the main absentee polling place for at least 12 hours on each of the last two days of the absentee voting period. Voting shall be conducted in accordance with this subsection in those elections in a county with a population under 100,000 on receipt by the absentee voting clerk of a written request for the extended hours submitted by at least 15 registered voters of the county.

SECTION 2. Section 85.006, Election Code, is amended by adding Subsection (e) to read as follows:

(e) In a primary election or the general election for state and county officers in a county with a population of 100,000 or more, the absentee voting clerk shall order personal appearance voting at the main absentee polling place to be conducted for at least eight hours on the last Saturday and for at least five hours on the last Sunday of the absentee voting period. The absentee voting clerk shall order voting to be conducted at those times in those elections in a county with a population under 100,000 on receipt of a written request for those hours submitted by at least 15 registered voters of the county. The request must be submitted in time to enable compliance with Section 85.007. This subsection supersedes any provision of this subchapter to the extent of any conflict.

SECTION 3. Section 85.064(c), Election Code, is amended to read as follows:

(c) The authority authorized under Section 85.006 to order absentee voting on a Saturday or Sunday may also order, in the manner prescribed by that section, absentee voting to be conducted on a Saturday or Sunday at any one or more of the temporary branch polling places. In addition, the absentee voting clerk of a county covered by Section 85.006(e) shall order such voting in accordance with that subsection at each temporary branch polling place.

SECTION 4. Section 85.065(b), Election Code, is amended to read as follows:

(b) Subject to Section 85.005(c), voting [Voting] at a temporary branch polling place may be conducted on any one or more days and during any hours of the period for voting absentee by personal appearance, as determined by the authority establishing the branch. The authority authorized under Section 85.006 to order absentee voting on a Saturday or Sunday may also order, in the manner prescribed by that section, absentee voting to be conducted on a Saturday or Sunday at any one or more of the temporary branch polling places. In addition, the absentee voting clerk of a county covered by Section 85.006(e) shall order such voting in accordance with that subsection at each temporary branch polling place.

SECTION 5. Section 85.068(a), Election Code, is amended to read as follows:

(a) The absentee voting clerk shall post notice for each election stating any dates and the hours that voting on Saturday or Sunday will be conducted under Section 85.064(c) or 85.065(b), if the absentee voting clerk is a county clerk or city secretary under Section 83.002 or 83.005.

SECTION 6. This Act takes effect September 1, 1989.

SECTION 7. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Local and Consent Calendars

Committee Amendment - Richardson

Amend C.S.S.B. 1484 as follows:

(1) On page 2, line 26, replace the phrase "each temporary branch polling place" with the phrase "all absentee polling places".

(2) Add a new SECTION 5 as follows:

SECTION 5. Section 85.006, Election Code, is amended by adding Subsection (e) to read as follows:

(e) Notwithstanding any conflicting provision of this subchapter, neither the commissioners court nor the absentee voting clerk may limit the voting at any absentee polling place established under any section of this code to the qualified voters of the particular state representative district or commissioners precinct, as applicable.

(3) Renumber subsequent sections accordingly.

The amendments were read.

Senator Whitmire moved that the Senate do not concur in the House amendments, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the Conference Committee on S.B. 1484 before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Whitmire, Chairman; Green, Washington, Barrientos and Edwards.

HOUSE JOINT RESOLUTION 32 ON SECOND READING

On motion of Senator Ratliff and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.J.R. 32, Proposing a constitutional amendment authorizing the legislature to permit and regulate raffles conducted by certain nonprofit organizations for charitable purposes.

The resolution was read second time and was passed to third reading viva voce vote.

HOUSE JOINT RESOLUTION 32 ON THIRD READING

Senator Ratliff moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **H.J.R. 32** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 23, Nays 5.

Yeas: Armbrister, Barrientos, Bivins, Brooks, Brown, Caperton, Carriker, Glasgow, Haley, Harris, Henderson, Johnson, Krier, Lyon, McFarland, Ratliff, Santiesteban, Sims, Tejada, Truan, Uribe, Whitmire, Zaffirini.

Nays: Edwards, Green, Leedom, Montford, Washington.

Absent: Dickson, Parker, Parmer.

The resolution was read third time and was passed by the following vote: Yeas 24, Nays 4.

Yeas: Armbrister, Barrientos, Bivins, Brooks, Brown, Caperton, Carriker, Glasgow, Haley, Harris, Henderson, Johnson, Krier, Lyon, McFarland, Ratliff, Santiesteban, Sims, Tejada, Truan, Uribe, Washington, Whitmire, Zaffirini.

Nays: Edwards, Green, Leedom, Montford.

Absent: Dickson, Parker, Parmer.

HOUSE BILL 240 ON SECOND READING

On motion of Senator Ratliff and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 240, Relating to raffles conducted by certain nonprofit organizations for charitable purposes.

The bill was read second time.

Senator Ratliff offered the following committee amendment to the bill:

Amend **H.B. 240** as follows:

Strike Subsection 3(j) of the Act and substitute the following:

“(j) A raffle is not authorized under this article unless the organization has in its possession or ownership the prize that is to be offered in the raffle or posts bond with the county clerk of the county in which the raffle is to be held for the full amount of the money value of such a prize.”

The committee amendment was read and was adopted viva voce vote.

On motion of Senator Ratliff and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading viva voce vote.

HOUSE BILL 240 ON THIRD READING

Senator Ratliff moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **H.B. 240** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 23, Nays 5.

Yeas: Armbrister, Barrientos, Bivins, Brooks, Brown, Caperton, Carriker, Glasgow, Haley, Harris, Henderson, Johnson, Krier, Lyon, McFarland, Ratliff, Santiesteban, Sims, Tejeda, Truan, Uribe, Whitmire, Zaffirini.

Nays: Edwards, Green, Leedom, Montford, Washington.

Absent: Dickson, Parker, Parmer.

The bill was read third time and was passed viva voce vote.

RECORD OF VOTES

Senators Edwards, Green, Leedom and Montford asked to be recorded as voting “Nay” on the final passage of the bill.

HOUSE BILL 2379 ON SECOND READING

On motion of Senator Truan and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 2379, Relating to the applicability of certain animal shelter and animal care standards.

The bill was read second time and was passed to third reading viva voce vote.

HOUSE BILL 2379 ON THIRD READING

Senator Truan moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **H.B. 2379** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed viva voce vote.

(President in Chair)

**COMMITTEE SUBSTITUTE
HOUSE BILL 2959 ON SECOND READING**

Senator Bivins moved to suspend the regular order of business to take up for consideration at this time:

C.S.H.B. 2959, Relating to the taxation of property transported outside this state.

The motion prevailed by the following vote: Yeas 22, Nays 3.

Yeas: Armbrister, Barrientos, Bivins, Brooks, Brown, Caperton, Carriker, Edwards, Glasgow, Green, Haley, Henderson, Johnson, Krier, Leedom, McFarland, Ratliff, Santiesteban, Sims, Tejada, Whitmire, Zaffirini.

Nays: Truan, Uribe, Washington.

Absent: Dickson, Harris, Lyon, Montford, Parker, Parmer.

The bill was read second time.

(Senator Henderson in Chair)

Senator Bivins offered the following amendment to the bill:

Amend **C.S.H.B. 2959** in Section 11.251 (j) as follows:

(j) petroleum products as set forth in Article VIII, Section 1-J of the Texas Constitution shall mean liquid and gaseous materials that are the immediate derivatives of the refining of oil or natural gas.

The amendment was read and was adopted viva voce vote.

On motion of Senator Bivins and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

Question - Shall the bill as amended be passed to third reading?

MESSAGE FROM THE HOUSE

House Chamber
May 27, 1989

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

S.B. 966 and S.B. 1704 were laid on the table subject to call.

The House has concurred in Senate amendments to the following bills by non-record votes:

H.B. 18
H.B. 472
H.B. 1258
H.B. 1963
H.B. 2117
H.B. 2619
H.B. 2945
H.B. 3124

The House has concurred in Senate amendments to **H.B. 2215** by a record vote of 138 Ayes, 0 Nays, 1 Present-not voting.

The House has concurred in Senate amendments to **H.B. 2586** by a record vote of 142 Ayes, 0 Nays, 1 Present-not voting.

S.C.R. 177, That by a two-thirds vote, the requirement of Rule 12.08 of the Rules of the Senate, 71st Legislature, that permission for a Conference Committee to consider and act on matters otherwise in violation of senate rules be granted only by concurrent resolution is suspended.

S.B. 1046, Relating to nonsubstantive additions to and corrections in enacted codes. (As substituted and amended)

S.C.R. 179, Granting conferees on **H.B. 1588** permission to consider certain matters.

The House has refused to concur in Senate amendments to **H.B. 3168** and has requested the appointment of a Conference Committee to consider the differences between the two houses. The following have been appointed on the part of the House: Schlueter, Chair; R. Cuellar, Goolsby, F. Hill, S. Hudson.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

(During discussion of the passage of C.S.H.B. 2959 to third reading, Senator Glasgow occupied the Chair)

Senator Glasgow recognized the presence in the Senate Chamber of the Honorable William P. Clements, Jr., Governor of the State of Texas.

The Senate welcomed Governor Clements.

**CONFERENCE COMMITTEE
GRANTED PERMISSION TO MEET**

On motion of Senator Green and by unanimous consent, the Conference Committee on S.B. 417 was granted permission to meet while the Senate was in session.

**ADMINISTRATION COMMITTEE
GRANTED PERMISSION TO MEET**

On motion of Senator Sims and by unanimous consent, the Committee on Administration was granted permission to meet while the Senate was in session.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2959 ON SECOND READING**

The Senate resumed consideration of C.S.H.B. 2959 on its second reading and passage to third reading.

Question - Shall the bill as amended be passed to third reading?

The bill as amended was passed to third reading viva voce vote.

RECORD OF VOTES

Senators Truan and Uribe asked to be recorded as voting "Nay" on the passage of the bill to third reading.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2959 ON THIRD READING**

Senator Bivins moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that C.S.H.B. 2959 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 22, Nays 3.

Yeas: Armbrister, Barrientos, Bivins, Brooks, Brown, Caperton, Carriker, Edwards, Glasgow, Green, Haley, Henderson, Johnson, Krier, Leedom, McFarland, Montford, Ratliff, Sims, Tejada, Whitmire, Zaffrini.

Nays: Truan, Uribe, Washington.

Absent: Dickson, Harris, Lyon, Parker, Parmer, Santiesteban.

The bill was read third time and was passed by the following vote: Yeas 22, Nays 3. (Same as previous roll call)

**CONFERENCE COMMITTEE REPORT
SENATE JOINT RESOLUTION 11**

Senator McFarland submitted the following Conference Committee Report:

Austin, Texas
May 25, 1989

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on S.J.R. 11 have met and had the same

under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

McFARLAND
BIVINS
HARRIS
CAPERTON
GLASGOW

On the part of the Senate

BERLANGA
C. HARRIS
VOWELL
EARLEY
CAIN

On the part of the House

A JOINT RESOLUTION

proposing a constitutional amendment to authorize the exemption from ad valorem taxation certain personal property temporarily in the state for certain purposes.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. That Article VIII, Section 1, of the Texas Constitution is amended to read as follows:

Sec. 1. (a) Taxation shall be equal and uniform.

(b) All real property and tangible personal property in this State, unless exempt as required or permitted by this Constitution, whether owned by natural persons or corporations, other than municipal, shall be taxed in proportion to its value, which shall be ascertained as may be provided by law.

(c) The Legislature may provide for the taxation of intangible property and may also impose occupation taxes, both upon natural persons and upon corporations, other than municipal, doing any business in this State. It may also tax incomes of both natural persons and corporations other than municipal, except that persons engaged in mechanical and agricultural pursuits shall never be required to pay an occupation tax.

(d) The Legislature by general law shall exempt from ad valorem taxation household goods not held or used for the production of income and personal effects not held or used for the production of income. The Legislature by general law may exempt from ad valorem taxation:

(1) all or part of the personal property homestead of a family or single adult, "personal property homestead" meaning that personal property exempt by law from forced sale for debt; and

(2) subject to Subsection (e) of this section, all other tangible personal property, except structures which are personal property and are used or occupied as residential dwellings and except property held or used for the production of income.

(e) The governing body of a political subdivision may provide for the taxation of all property exempt under a law adopted under Subdivision (2) of Subsection (d) of this section and not exempt from ad valorem taxation by any other law.

(f) ~~(th)~~ The occupation tax levied by any county, city or town for any year on persons or corporations pursuing any profession or business, shall not exceed one half of the tax levied by the State for the same period on such profession or business.

SECTION 2. Article VIII of the Texas Constitution is amended by adding Section 1-j to read as follows:

Sec. 1-j. (a) To promote economic development in the State, goods, wares, merchandise, other tangible personal property, and ores, other than oil, natural gas, and other petroleum products, are exempt from ad valorem taxation if:

(1) the property is acquired in or imported into this State to be forwarded outside this State, whether or not the intention to forward the property outside this State is formed or the destination to which the property is forwarded is specified when the property is acquired in or imported into this State;

(2) the property is detained in this State for assembling, storing, manufacturing, processing, or fabricating purposes by the person who acquired or imported the property; and

(3) the property is transported outside of this State not later than 175 days after the date the person acquired or imported the property in this State.

(b) Tangible personal property exempted from taxation in Subsection (a) of this section is subject to the following:

(1) A county, common, or independent school district, junior college district, or municipality, including a home-rule city, may tax such property otherwise exempt, if the governing body of the county, common, or independent school district, junior college district, or municipality takes official action as provided in this section and in the manner provided by law to provide for the taxation of such property.

(2) Any official action to tax such exempt property must be taken before April 1, 1990. If official action is taken to tax such exempt property before January 1, 1990, such property is taxable effective for the tax year 1990. However, if such official action to tax such exempt property is taken prior to April 1, 1990, but after January 1, 1990, the official action shall not become effective to tax such property until the 1991 tax year.

(3) Any of the above-named political subdivisions shall have the authority to exempt from payment of taxation such property located in such above-named political subdivisions for the taxing year 1989. If a governing body exempts the property from 1989 taxes, the governing body shall waive 1989 taxes already imposed and refund 1989 taxes already paid on such property for that year.

(4) The governing body of a county, common, or independent school district, junior college district, or municipality that acts under Subdivision (2) of Subsection (b) of this section to tax the property otherwise exempt by Subsection (a) of this section may subsequently exempt the property from taxation by rescinding its action to tax the property. The exemption applies to each tax year that begins after the date the action is taken and applies to the tax year in which the action is taken if the governing body so provides. A governing body that rescinds its action to tax the property may not take action to tax such property after the rescission.

(c) For purposes of this section:

(1) tangible personal property shall include aircraft and aircraft parts;

(2) property imported into this State shall include property brought into this State;

(3) property forwarded outside this State shall include property transported outside this State or to be affixed to an aircraft to be transported outside this State; and

(4) property detained in this State for assembling, storing, manufacturing, processing, or fabricating purposes shall include property, aircraft, or aircraft parts brought into this State or acquired in this State and used by the person who acquired the property, aircraft, or aircraft parts in or who brought the property, aircraft, or aircraft parts into this State for the purpose of repair or maintenance of aircraft operated by a certificated air carrier.

SECTION 3. This proposed constitutional amendment shall be submitted to the voters at an election to be held on November 7, 1989. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment promoting economic growth, job creation, and fair tax treatment for Texans who export goods to other states and nations by restoring and allowing, on a local option basis, an ad valorem tax exemption for certain personal property that is in Texas only temporarily for the purpose of assembling, storing, manufacturing, processing, or fabricating."

The Conference Committee Report was read and was filed with the Secretary of the Senate.

SENATE RULE 12.09(b) SUSPENDED

On motion of Senator McFarland and by unanimous consent, Senate Rule 12.09(b) was suspended as it relates to the Conference Committee Report on S.J.R. 11.

**CONFERENCE COMMITTEE REPORT ON
SENATE JOINT RESOLUTION 11 ADOPTED**

Senator McFarland called from the President's table the Conference Committee Report on S.J.R. 11. (The Conference Committee Report having been filed with the Senate and read on Saturday, May 27, 1989.)

On motion of Senator McFarland, the Conference Committee Report was adopted by the following vote: Yeas 28, Nays 1.

Nays: Truan.

Absent: Harris, Parker.

**MOTION TO PLACE COMMITTEE SUBSTITUTE
HOUSE BILL 504 ON SECOND READING**

Senator Brown moved to suspend the regular order of business, Senate Rule 5.14 and Senate Rule 7.13 to take up for consideration at this time:

C.S.H.B. 504, Relating to the sale of certain mixtures of gasoline and alcohol; providing penalties.

On motion of Senator Brown and by unanimous consent, the motion to suspend the regular order of business, Senate Rule 5.14 and Senate Rule 7.13 was withdrawn.

CONFERENCE COMMITTEE ON HOUSE BILL 708

Senator Barrientos called from the President's table for consideration at this time the request of the House for a Conference Committee to adjust the differences between the two Houses on **H.B. 708** and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the Conference Committee on **H.B. 708** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Barrientos, Chairman; Whitmire, Truan, Johnson and Green.

SENATE RULE 7.22(b) SUSPENDED

On motion of Senator Leedom and by unanimous consent, Senate Rule 7.22(b) was suspended as it relates to the House amendments to **S.B. 538**.

SENATE BILL 538 WITH HOUSE AMENDMENTS

Senator Leedom called **S.B. 538** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Amendment No. 1 - Saunders

Amend S.B. 538 as follows:

On page 5, SECTION 7, strike subsection (2) and renumber subsequent subsections appropriately.

Amendment No. 2 - Denton

Amend S.B. 538 by inserting a new Section 8 of the substitute to read as follows and renumbering existing Section 8 and subsequent sections accordingly:

SECTION 8. Section 9, State Aircraft Pooling Act (Article 4413(34b), Vernon's Texas Civil Statutes), is amended by adding Subsection (e) to read as follows:

(e) The board may not provide aircraft transportation to a passenger if the passenger is to be transported to or from a place where the passenger:

(1) will make or has made a speech not related to official state business;

(2) will attend or has attended an event sponsored by a political party or an event intended to promote a political party;

(3) will perform a service or has performed a service for which the passenger is to receive an honorarium, unless the passenger reimburses the board for the cost of transportation;

(4) will attend or has attended an event at which money is raised for private or political purposes; or

(5) will attend or has attended an event at which an audience was charged an admission fee to see or hear the passenger.

Amendment No. 3 - Perry

Amend S.B. 538 as follows:

(1) On page 5, between lines 18 and 19, insert the following as the new SECTION 8 of the bill and renumber the existing SECTIONS 8-10 of the bill appropriately:

SECTION 8. The State Aircraft Pooling Act (Article 4413(34b), Vernon's Texas Civil Statutes) is amended by adding Section 16 to read as follows:

Sec. 16. ADMINISTRATION OF CERTAIN FEDERAL GRANTS. (a) The board is designated the agent and administrator for the state and for each political subdivision of the state for the purpose of applying for, receiving, and disbursing federal funds that may be made available under the airport improvement program and the airway improvement program of the Airport and Airway Improvement Act of 1982, as amended (49 U.S.C.A. App. Sections 2204, 2205). This designation applies only to federal funds for the benefit of nonprimary commercial, reliever, and general aviation airports. Federal funds for the benefit of other airports may be applied for, received, and disbursed by other entities under other law.

(b) The board shall:

(1) administer a state airport funding program as authorized under Subsection (a) of this section;

(2) develop application procedures for political subdivisions and other entities that wish to participate in the program;

(3) adopt an annual state airport development program that lists the airport projects eligible for funding under this section during each state fiscal year, and update the program semiannually if necessary, giving preference under the program to airport projects that are included in the Texas aeronautical facilities plan, as amended by the Texas Aeronautics Commission; and

(4) monitor all grants received by entities under this section, using compliance inspections, grant auditing, and other monitoring techniques.

The amendments were read.

Senator Leedom moved that the Senate do not concur in the House amendments, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the Conference Committee on S.B. 538 before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Leedom, Chairman; Henderson, Harris, McFarland and Montford.

SENATE RULE 7.22(b) SUSPENDED

On motion of Senator Zaffirini and by unanimous consent, Senate Rule 7.22(b) was suspended as it relates to the House amendments to S.B. 356.

SENATE BILL 356 WITH HOUSE AMENDMENTS

Senator Zaffirini called S.B. 356 from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Floor Amendment - Shelley

Amend S.B. 356 as follows:

- (1) On page 2, strike lines 14 through 20 of the bill.

Floor Amendment on Third Reading - Shelley

Amend S.B. 356 as follows:

- (1) Insert a new subsection (f) in Section 1 of the bill to read as follows:

(f) The custodian of a municipal or county treasury who receives fees imposed under this article for services performed by peace officers employed by the state shall forward the fees to the comptroller of public accounts by on the last day of the month following each calendar quarter after deducting \$2 \$10 of each fee received for a service performed under Subsection (a)(1) or (a)(2) of this article, in a manner directed by the comptroller. The municipality or county may retain all interest earned on those funds.

The amendments were read.

Senator Zaffirini moved that the Senate do not concur in the House amendments, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the Conference Committee on S.B. 356 before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Zaffirini, Chairman; Tejada, Brown, Dickson and Parmer.

CONFERENCE COMMITTEE ON HOUSE BILL 3168

Senator Dickson called from the President's table for consideration at this time the request of the House for a Conference Committee to adjust the differences between the two Houses on **H.B. 3168** and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the Conference Committee on **H.B. 3168** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Dickson, Chairman; Carriker, Sims, Bivins and Haley.

COMMITTEE SUBSTITUTE HOUSE BILL 504 ON SECOND READING

On motion of Senator Brown and by unanimous consent, the regular order of business, Senate Rule 5.14 and Senate Rule 7.13 were suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 504, Relating to the sale of certain mixtures of gasoline and alcohol; providing penalties.

The bill was read second time.

Senator Carriker offered the following amendment to the bill:

Amend **C.S.H.B. 504** by adding on page 2 at line 18 after the word "information." the following: ", the information and posting being subject to regulations by the Commissioner of Agriculture."

The amendment was read and was adopted viva voce vote.

On motion of Senator Brown and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading viva voce vote.

RECORD OF VOTE

Senator Lyon asked to be recorded as voting "Nay" on the passage of the bill to third reading.

COMMITTEE SUBSTITUTE HOUSE BILL 504 ON THIRD READING

Senator Brown moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **C.S.H.B. 504** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 3.

Yeas: Armbrister, Barrientos, Bivins, Brooks, Brown, Caperton, Dickson, Edwards, Glasgow, Green, Haley, Harris, Henderson, Johnson, Krier, Leedom, McFarland, Montford, Parker, Parmer, Ratliff, Santiesteban, Sims, Tejada, Truan, Uribe, Whitmire, Zaffirini.

Nays: Carriker, Lyon, Washington.

The bill was read third time and was passed viva voce vote.

RECORD OF VOTES

Senators Carriker and Lyon asked to be recorded as voting "Nay" on the final passage of the bill.

SENATE CONCURRENT RESOLUTION 178

Senator Caperton offered the following resolution:

S.C.R. 178, Suspending the rules to allow conferees on **S.B. 222** (General Appropriations Bill) to consider and act on specific matters contained in the bill.

The resolution was read.

On motion of Senator Caperton and by unanimous consent, the resolution was considered immediately and was adopted viva voce vote.

CONFERENCE COMMITTEE ON SENATE BILL 895 REVISED

On motion of Senator Harris and by unanimous consent, Senator Caperton will replace Senator Johnson as a conferee on **S.B. 895**.

SENATE RULE 7.22(b) SUSPENDED

On motion of Senator Parmer and by unanimous consent, Senate Rule 7.22(b) was suspended as it relates to the House amendment to **S.B. 823**.

SENATE BILL 823 WITH HOUSE AMENDMENT

Senator Parmer called **S.B. 823** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Committee Amendment - Robinson

Amend **S.B. 823** by striking all below the enacting clause and substituting in lieu thereof the following:

SECTION 1. Section 76.001, Civil Practice and Remedies Code, is amended by adding Subdivision (5) to read as follows:

(5) "Gleaner" means a person who harvests for free distribution to the needy an agricultural crop that has been donated by the owner.

SECTION 2. Section 76.004, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 76.004. LIABILITY FOR DAMAGES FROM DONATED FOOD. (a) A person or gleaner is not subject to civil or criminal liability arising from the condition of apparently wholesome food that the person or gleaner donates to a church, a not-for-profit organization or a nonprofit organization for distribution to the needy. This subsection does not apply to an injury or death that results from an act or omission of the donor constituting gross negligence, recklessness, or intentional misconduct.

(b) A person who is allowing his or her fields to be gleaned by volunteers for distribution to the needy is not subject to civil or criminal liability that arises due to the injury of a gleaner, unless an injury or death results from an act or omission of the person constituting gross negligence, recklessness, or intentional misconduct.

(c) A nonprofit organization is not subject to civil or criminal liability arising from the condition of apparently wholesome food that it distributes to the needy

at no charge in substantial compliance with applicable local, county, state, and federal laws and rules regarding the storage and handling of food for distribution to the public. This subsection does not apply to an injury or death that results from an act or omission of the organization constituting gross negligence, recklessness, or intentional misconduct.

(d) [e] This chapter does not create any liability.

SECTION 3. This Act applies only to a cause of action that accrues on or after the date on which this Act become effective. An action that accrued before the effective date of this Act is governed by the law in effect at the time the action accrued, and that law is continued in effect for that purpose.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read.

On motion of Senator Parmer and by unanimous consent, the Senate concurred in the House amendment to S.B. 823 viva voce vote.

SENATE RULE 7.22(b) SUSPENDED

On motion of Senator Parmer and by unanimous consent, Senate Rule 7.22(b) was suspended as it relates to the House amendment to S.B. 822.

SENATE BILL 822 WITH HOUSE AMENDMENT

Senator Parmer called S.B. 822 from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Committee Amendment - Waterfield

Amend S.B. 822 by striking all below the enacting clause and substituting in lieu thereof the following:

SECTION 1. Title 2, Agriculture Code, is amended by adding Chapter 15 to read as follows:

CHAPTER 15. FARMERS MARKET NUTRITION PROGRAMS **SUBCHAPTER A. PROGRAM ADMINISTERED BY TEXAS** **DEPARTMENT OF HEALTH**

Sec. 15.001. **DEFINITIONS.** In this subchapter:

(1) "Farmers market" means a location at which a group of two or more farmers that are certified under the department's farmers market certification program offer produce for retail sale.

(2) "Food coupon" means any redemptive coupon issued by the Texas Department of Health under this subchapter that is exchangeable only for produce at a farmers market.

(3) "Produce" means fresh fruits or vegetables.

(4) "W.I.C. program" means the federal special supplemental food program for women, infants, and children administered by the Texas Department of Health.

Sec. 15.002. **ESTABLISHMENT OF SPECIAL NUTRITION PROGRAM.** The Texas Department of Health may establish a special nutrition program to distribute to certain participants of the W.I.C. program food coupons that are redeemable only at farmers markets located in areas in which the program is implemented.

Sec. 15.003. ELIGIBILITY; AMOUNT OF ALLOTMENT. (a) A person is eligible to participate in the special nutrition program if the person is enrolled in the W.I.C. program and resides in an area in which the special nutrition program is implemented. The Texas Department of Health shall determine the eligibility of potential participants.

(b) Only the Texas Department of Health may determine the dollar amount of each participant's monthly allotment of food coupons.

Sec. 15.004. AREAS OF IMPLEMENTATION. (a) The department and the Texas Department of Health shall adopt an interagency agreement that provides for consultation, cooperation, and agreement between the state agencies concerning the areas in which the special nutrition program will be implemented.

(b) If either state agency fails to approve the implementation of the program in a specific area, the program may not be implemented in that area.

(c) The interagency agreement shall provide for periodic review of the areas in which the program will be implemented.

Sec. 15.005. RULES. The Texas Board of Health shall adopt rules under this subchapter that provide for:

- (1) the design, printing, and denominations of the food coupons;
- (2) the procedure for the delivery of the food coupons to participants;
- (3) the procedure for the redemption of food coupons by the sellers of the produce; and

(4) other rules necessary for carrying out the purposes of this subchapter.

Sec. 15.006. ANNUAL REPORT. The department and the Texas Department of Health shall jointly prepare an annual report concerning the special nutrition program and submit a copy of the report to the governor, lieutenant governor, and speaker of the house of representatives. The report must include information on the condition of the program, persons served, amount of food coupons redeemed, and funds received and expended.

Sec. 15.007. PROGRAM FUNDS. The Texas Department of Health may accept gifts and grants from the federal government, the state, and private sources as well as legislative appropriations for the program authorized by this subchapter. The use of gifts and grants other than legislative appropriations is subject, after their appropriation, only to limitations contained in the gift or grant.

[Sections 15.008-15.020 reserved for expansion]

SUBCHAPTER B. PROGRAM ADMINISTERED BY DEPARTMENT

Sec. 15.021. DEFINITIONS. In this subchapter:

(1) "Farmers market" means a location at which a group of two or more farmers that are certified under the department's farmers market certification program offer produce for retail sale.

(2) "Food coupon" means any redemptive coupon issued by the department under this subchapter that is exchangeable only for produce at a farmers market.

(3) "Produce" means:

(A) fresh or dried fruits or vegetables; or

(B) other unprocessed food products that are normally for sale at a farmers market, including eggs, honey, and nuts.

Sec. 15.022. ESTABLISHMENT OF FARMERS MARKET NUTRITION PROGRAM. The department shall establish a farmers market nutrition program to distribute to eligible persons food coupons that are redeemable only at farmers markets located in areas in which the program is implemented.

Sec. 15.023. INTERAGENCY COOPERATION. The department may cooperate and enter into an interagency agreement with one or more state agencies jointly to implement the farmers market nutrition program in one or more areas of the state.

Sec. 15.024. ADMINISTRATOR. The department shall employ an individual to administer the program. The administrator of the program shall work under the commissioner's direction.

Sec. 15.025. ELIGIBILITY; AMOUNT OF ALLOTMENT. (a) A person is eligible to participate in the farmers market nutrition program if the person is at least 60 years of age, living in poverty as defined under federal regulations, and residing in an area in which the program is implemented. The department shall determine the eligibility of individuals to participate and may cooperate with the Texas Department on Aging to make that determination.

(b) Only the department may determine the dollar amount of each participant's monthly allotment of food coupons. When determining the amount of each participant's allotment, the department shall consider the number of participants, the nutritional needs of the participants, and the amount of money available to finance the program.

(c) The department by rule may expand the eligibility requirements of this section if the resulting expansion of benefits is financed by specific gifts or grants.

Sec. 15.026. AREAS OF IMPLEMENTATION. (a) The department by rule shall implement the farmers market nutrition program in one or more areas of the state.

(b) The department shall periodically determine the areas in which the program will be implemented.

(c) When considering an area in which the program will be implemented, the administrator shall determine the need for the program in that area, the availability of farmers markets in the area, and other factors that would affect the effectiveness of the program.

Sec. 15.027. REDEMPTION OF COUPON BY SELLER OF PRODUCE. (a) The department shall enter into an interagency agreement with the state treasurer for redemption of food coupons issued under the program.

(b) On presentation by a farmer or association of farmers, the state treasurer shall exchange for cash or a state warrant, in an amount equal to face value, a food coupon received by the farmer at a farmers market under this subchapter.

(c) The state treasurer may enter into contracts with financial institutions or other appropriate entities to act as the agent of the treasurer for the purpose of exchanging food coupons received by a farmer under this subchapter.

Sec. 15.028. RULES. The department shall consult with any other state agency that is jointly implementing the farmers market nutrition program and adopt rules under this subchapter that provide for:

- (1) the design, printing, and denomination of the food coupons;
- (2) the procedure for delivery of the food coupons; and
- (3) other rules necessary for carrying out the purposes of this

subchapter.

Sec. 15.029. ANNUAL REPORT. The department and any other state agency that is jointly implementing the farmers market nutrition program shall jointly prepare an annual report concerning the program and submit a copy of the report to the governor, lieutenant governor, and speaker of the house of representatives. The report must include information on the condition of the program, persons served, amount of food coupons redeemed, and funds received and expended.

Sec. 15.030. PROGRAM FUNDS. The department may accept gifts and grants from the federal government, the state, and private sources as well as legislative appropriations for the program authorized by this subchapter. The use of gifts and grants other than legislative appropriations is subject, after their appropriation, only to limitations contained in the gift or grant.

SECTION 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read.

Senator Parmer moved to concur in the House amendment to S.B. 822.

The motion prevailed by the following vote: Yeas 31, Nays 0.

**VOTE TO CONCUR IN HOUSE AMENDMENT TO
SENATE BILL 823 RECONSIDERED**

On motion of Senator Parmer and by unanimous consent, the vote by which the Senate concurred in the House amendment to S.B. 823 was reconsidered.

Question - Shall the Senate concur in the House amendment to S.B. 823?

On motion of Senator Parmer, the Senate concurred in the House amendment to S.B. 823 by the following vote: Yeas 31, Nays 0.

SENATE RULE 7.22(b) SUSPENDED

On motion of Senator Parmer and by unanimous consent, Senate Rule 7.22(b) was suspended as it relates to the House amendment to S.B. 914.

SENATE BILL 914 WITH HOUSE AMENDMENT

Senator Parmer called S.B. 914 from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Amendment on Third Reading - Junell

Amend S.B. 914 on page 1, line 14, by striking "in which there is no incorporated municipality".

The amendment was read.

On motion of Senator Parmer and by unanimous consent, the Senate concurred in the House amendment to S.B. 914 viva voce vote.

SENATE RULE 7.22(b) SUSPENDED

On motion of Senator Parmer and by unanimous consent, Senate Rule 7.22(b) was suspended as it relates to House amendments to S.B. 1602.

SENATE BILL 1602 WITH HOUSE AMENDMENTS

Senator Parmer called S.B. 1602 from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Committee Amendment No. 1 - Edge

Amend S.B. 1602 as follows:

Strike Section 2 of the bill and renumber the subsequent section appropriately.

Committee Amendment No. 2 - Edge

Amend S.B. 1602 as follows:

(1) On page 6, line 14, strike the words a pro rata share of.

(2) On page 6, line 16, strike the words "and the proceeds" and substitute the words "and a pro rata share of any money other than revenue deposited in the state treasury to the credit of the TISAF".

The amendments were read.

Senator Parmer moved to concur in the House amendments to **S.B. 1602**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE CONCURRENT RESOLUTION 148

On motion of Senator Parmer and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading:

S.C.R. 148, Urging the Bush Administration, the newly reconvened National Space Council, the Congress of the United States, the Department of Defense and the National Aeronautics and Space Administration to maintain a strong and clear federal commitment to hypersonics research.

The resolution was read second time and was adopted viva voce vote.

COMMITTEE SUBSTITUTE HOUSE BILL 1434 ON SECOND READING

On motion of Senator Parmer and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 1434, Relating to purchasing by local governments; providing criminal penalties.

The bill was read second time and was passed to third reading viva voce vote.

COMMITTEE SUBSTITUTE HOUSE BILL 1434 ON THIRD READING

Senator Parmer moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **C.S.H.B. 1434** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 2.

Yeas: Armbrister, Barrientos, Bivins, Brooks, Caperton, Carriker, Dickson, Edwards, Glasgow, Green, Haley, Harris, Henderson, Johnson, Krier, Leedom, Lyon, McFarland, Montford, Parker, Parmer, Ratliff, Santiesteban, Sims, Tejada, Truan, Uribe, Whitmire, Zaffirini.

Nays: Brown, Washington.

The bill was read third time and was passed viva voce vote.

RECORD OF VOTE

Senator Brown asked to be recorded as voting "Nay" on the final passage of the bill.

HOUSE BILL 1787 ON SECOND READING

Senator Parmer moved to suspend the regular order of business to take up for consideration at this time:

H.B. 1787, Relating to the regulation of the care and treatment of animals in certain riding stables; providing a penalty.

The motion prevailed by the following vote: Yeas 20, Nays 7.

Yeas: Armbrister, Barrientos, Brooks, Caperton, Carriker, Dickson, Edwards, Green, Haley, Johnson, Krier, Parmer, Ratliff, Santiesteban, Tejada, Truan, Uribe, Washington, Whitmire, Zaffirini.

Nays: Bivins, Brown, Glasgow, Harris, Leedom, Montford, Sims.

Absent: Henderson, Lyon, McFarland, Parker.

The bill was read second time and was passed to third reading viva voce vote.

HOUSE BILL 1787 ON THIRD READING

Senator Parmer moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **H.B. 1787** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 23, Nays 4.

Yeas: Armbrister, Barrientos, Brooks, Brown, Caperton, Carriker, Dickson, Edwards, Glasgow, Green, Haley, Harris, Johnson, Krier, Montford, Parmer, Ratliff, Santiesteban, Tejada, Truan, Uribe, Whitmire, Zaffirini.

Nays: Bivins, Leedom, Sims, Washington.

Absent: Henderson, Lyon, McFarland, Parker.

The bill was read third time and was passed viva voce vote.

RECORD OF VOTES

Senators Bivins, Brown, Glasgow, Harris, Leedom, Montford and Sims asked to be recorded as voting "Nay" on the final passage of the bill.

HOUSE BILL 1098 ON SECOND READING

On motion of Senator Harris and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1098, Relating to the issuance of cease and desist orders against unauthorized insurers and persons engaged in an insurance business by the commissioner of insurance.

The bill was read second time and was passed to third reading viva voce vote.

HOUSE BILL 1098 ON THIRD READING

Senator Harris moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **H.B. 1098** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2634 ON SECOND READING**

On motion of Senator Brooks and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 2634, Relating to the attainment of educational skills as a condition of probation or parole.

The bill was read second time.

Senator Brooks offered the following amendment to the bill:

Amend **C.S.H.B. 2634** as follows:

(1) On page _____, line _____, by inserting "or the learning ability" between "capacity" and "to".

(2) On page _____, line _____, by inserting "or the learning ability" between "capacity" and "to".

The amendment was read and was adopted viva voce vote.

On motion of Senator Brooks and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2634 ON THIRD READING**

Senator Brooks moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **C.S.H.B. 2634** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed viva voce vote.

HOUSE BILL 1494 ON SECOND READING

On motion of Senator Brooks and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1494, Relating to eligibility for, and financing of, benefits from the Employees Retirement System of Texas for law enforcement and custodial officers.

The bill was read second time.

Senator Brooks offered the following committee amendment to the bill:

Amend **H.B. 1494** as follows:

Strike Sections 2, 3, and 4 and renumber the remaining sections.

The committee amendment was read.

Senator Brooks offered the following substitute amendment for the committee amendment:

Amend **H.B. 1494** by striking Section 2 and substituting the following and by renumbering the subsequent Section accordingly:

SECTION 2. Section 25.405, Title 110B, Revised Statutes, is amended to read as follows:

Sec. 25.405. CONTRIBUTIONS TO LAW ENFORCEMENT AND CUSTODIAL OFFICER SUPPLEMENTAL RETIREMENT FUND. (a) The Department of Public Safety shall transfer monthly to the law enforcement and custodial officer supplemental retirement fund \$2.25 [~~\$1.50~~] of the motor vehicle inspection fee for each vehicle inspected as required under Section 141(c) of the Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes), and \$3.75 [~~\$3.00~~] for each vehicle inspected as required by Section 141(c-1) of that Act.

SECTION 3. Sections 141(c) and (c-1), Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes), are amended to read as follows:

(c) The fee for compulsory inspection of a motor vehicle other than a moped, to be made under this Section, shall be Eight Dollars and Fifty Cents (\$8.50) [~~Seven Dollars and Seventy-five Cents (\$7.75)~~]. The fee for compulsory inspection of a moped, to be made under this Section, shall be Five Dollars and Seventy-five Cents (\$5.75) [~~\$5.00~~]. Three Dollars and Fifty Cents (\$3.50) [~~Two Dollars and Seventy-five Cents (\$2.75)~~] of each fee shall be paid to the Department and shall, except as provided by Section 25.405, Title 110B, Revised Statutes, be placed in the Motor Vehicle Inspection Fund for the purpose of paying the expense of the administration of this law [~~and the payment of supplemental retirement benefits as provided by law~~]. The Department may require each official inspection station to make an advance payment of Three Dollars and Fifty Cents (\$3.50) [~~Two Dollars and Seventy-five Cents (\$2.75)~~] for each inspection certificate furnished to it, and the money so received shall, except as provided by Section 25.405, Title 110B, Revised Statutes, be placed in the Motor Vehicle Inspection Fund, and no further payment to the Department shall be required upon issuance of the certificate. If such advance payment has been made, the Department shall refund to the inspection station the amount of Three Dollars and Fifty Cents (\$3.50) [~~Two Dollars and Seventy-five Cents (\$2.75)~~] for each unissued certificate which the inspection station returns to the Department in accordance with rules and regulations promulgated by the Department. An inspection station may waive the fee otherwise due from the owner of a vehicle inspected under this Section if the inspection station has rendered in advance to the Department the payment of Three Dollars and Fifty Cents (\$3.50) [~~Two Dollars and Seventy-five Cents (\$2.75)~~] for the certificate applied to a vehicle with respect to which the owner's fee has been so waived.

(c-1) Notwithstanding the provisions of Subsection (c) of Section 140 of this Act and Subsection (c) of this section, a passenger car or light truck that is sold in this state, has not been previously registered in this or another state, and on the date of sale is of the current or the immediately preceding model year is subject to an initial inspection that expires at the end of two years. The fee for compulsory inspection under this subsection is Fifteen Dollars and Seventy-five Cents (\$15.75) [~~(\$15)~~]. The Department shall require each official inspection station to make an advance payment of Ten Dollars and Seventy-five Cents (\$10.75) [~~(\$10)~~] for a certificate to be issued under this subsection, and the money so received shall, except as provided by Section 25.405, Title 110B, Revised Statutes, be placed in the Motor Vehicle Inspection Fund. No further payment may be required of a station for a certificate under this subsection. Refunds for unissued certificates shall be made in the same manner as provided for other certificate refunds. This subsection does not preclude motor vehicle emission inspections from being conducted during an initial certification period under this subsection in counties covered by a federal Environmental Protection Agency-approved inspection and maintenance program pursuant to Subsection (d) of Section 142 of this Act and the federal Clean Air Act

(42 U.S.C. Section 7401 et seq.). An inspection station may waive the fee otherwise due from the owner of a vehicle inspected under this Subsection.

SECTION 4. The Employees Retirement System of Texas, State Pension Review Board, Texas Department of Public Safety, Texas Parks and Wildlife Department, Texas Alcoholic Beverage Commission, and the Texas Department of Corrections or its successor agency shall examine ways to finance future long-term needs and increase the actuarial soundness of the Law Enforcement and Custodial Officer Supplemental Retirement Fund, and report the findings and recommendations to the Governor and the 72nd Legislature by January 31, 1991.

SECTION 5. This Act takes effect September 1, 1989, and applies only to retirements or deaths that occur on or after that date and to motor vehicle inspections that are performed on or after that date.

The amendment was read and was adopted viva voce vote.

On motion of Senator Brooks and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading viva voce vote.

HOUSE BILL 1494 ON THIRD READING

Senator Brooks moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that H.B. 1494 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 2.

Yeas: Armbrister, Barrientos, Brooks, Brown, Caperton, Carriker, Dickson, Edwards, Glasgow, Green, Haley, Harris, Henderson, Johnson, Krier, Leedom, Lyon, McFarland, Montford, Parker, Parmer, Ratliff, Santiesteban, Sims, Tejada, Truan, Uribe, Whitmire, Zaffirini.

Nays: Bivins, Washington.

The bill was read third time and was passed viva voce vote.

RECORD OF VOTE

Senator Bivins asked to be recorded as voting "Nay" on the final passage of the bill.

CONFERENCE COMMITTEE ON HOUSE BILL 1193

Senator Washington called from the President's table for consideration at this time the request of the House for a Conference Committee to adjust the differences between the two Houses on H.B. 1193 and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the Conference Committee on H.B. 1193 before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Washington, Chairman; Parmer, Johnson, Whitmire and Green.

HOUSE JOINT RESOLUTION 102 ON SECOND READING

Senator Barrientos asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

H.J.R. 102, Proposing a constitutional amendment relating to the compensation of the lieutenant governor and members of the legislature.

There was objection.

Senator Barrientos then moved to suspend the regular order of business and take up **H.J.R. 102** for consideration at this time.

The motion prevailed by the following vote: Yeas 21, Nays 9.

Yeas: Armbrister, Barrientos, Brooks, Brown, Caperton, Carriker, Dickson, Glasgow, Haley, Johnson, Krier, Lyon, McFarland, Parker, Ratliff, Santiesteban, Sims, Truan, Uribe, Washington, Whitmire.

Nays: Bivins, Edwards, Green, Harris, Leedom, Montford, Parmer, Tejeda, Zaffirini.

Absent: Henderson.

The resolution was read second time.

Senator Krier offered the following amendment to the resolution:

Amend **H.J.R. 102** as follows:

(1) In Sections 1 and 3, insert the following between Subsection (c) and Subsection (d) of proposed Article III, Section 24, of the Texas Constitution, and redesignate the current Subsection (d) as Subsection (e):

(d) No law, varying the salary of Members of the Legislature, shall take effect, until a general election shall have intervened.

The amendment was read and was adopted viva voce vote.

On motion of Senator Barrientos and by unanimous consent, the caption was amended to conform to the body of the resolution as amended.

The resolution as amended was passed to third reading viva voce vote.

RECORD OF VOTE

Senator Bivins and Leedom asked to be recorded as voting "Nay" on the passage of the resolution to third reading.

HOUSE JOINT RESOLUTION 102 ON THIRD READING

Senator Barrientos moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **H.J.R. 102** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 24, Nays 6.

Yeas: Armbrister, Barrientos, Brooks, Brown, Caperton, Carriker, Dickson, Glasgow, Green, Haley, Harris, Johnson, Krier, Lyon, McFarland, Montford, Parker, Ratliff, Santiesteban, Sims, Tejeda, Truan, Uribe, Whitmire.

Nays: Bivins, Edwards, Leedom, Parmer, Washington, Zaffirini.

Absent: Henderson.

The resolution was read third time and was passed by the following vote: Yeas 22, Nays 7.

Yeas: Armbrister, Barrientos, Brooks, Brown, Caperton, Carriker, Dickson, Glasgow, Green, Haley, Johnson, Krier, Lyon, Parker, Ratliff, Santiesteban, Sims, Tejeda, Truan, Uribe, Washington, Whitmire.

Nays: Bivins, Edwards, Harris, Leedom, Montford, Parmer, Zaffirini.

Absent: Henderson, McFarland.

**COMMITTEE SUBSTITUTE
HOUSE BILL 911 ON SECOND READING**

On motion of Senator Montford and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 911, Relating to the rates and regulation of certain municipally owned electric utilities.

The bill was read second time.

Senator Montford offered the following amendment to the bill:

Amend **C.S.H.B. 911** by striking all below the enacting clause and substituting in lieu thereof the following:

SECTION 1. Section 26, Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), is amended by renumbering existing subsections (d) and (e) as (e) and (f), respectively, and adding a new subsection (d) to read as follows:

(d) This subsection applies only to municipality whose utility is not managed and controlled by a board of trustees as provided for in Article 1115 Vernon's Annotated Civil Statutes and has a population of more than 300,000 according to the most recent federal decennial census shall thereafter be subject to the following:

(1) For a period of ten (10) years beginning on the effective date of this subsection, the commission shall have appellate jurisdiction over the rates charged by the municipally owned utility, both inside and outside such municipality's corporate limits, specifically limited as follows:

(A) The commission shall have the jurisdiction to review the method of allocating production costs adopted by the City Council or other governing body of the municipally owned utility subject to this subsection.

(i) If the commission finds that such cost of service methodology results in unreasonable discrimination or in undue preference in rates to any customer class, then the Commission may order the implementation of a cost of service methodology which the commission finds reasonable.

(ii) The Commission shall ensure that no customer class, other than any class or classes where the city is itself the customer of the municipally owned utility, pays rates which result in a relative rate of return exceeding 115 per cent under the cost of service methodology adopted by the City Council or other governing body of the municipally owned utility except in circumstances that would cause any customer class' or classes' base rates to increase more than one and one-half (1 1/2) times the utility system's average base rate increase or cause any customer class' or classes' base rates to decrease less than one-half (1/2) times the utility system's average base rate increase.

(iii) Notwithstanding any provisions of this Act or this subsection, the municipality may design such residential rates as it finds appropriate.

(B) The commission's jurisdiction under this subsection may be invoked by any party to the local rate proceedings required by this subsection, in the same manner as appeals of the rates of public utilities under subsection (a) of this section of this Act. Provided however, that the commission's jurisdiction under

this subsection (d) shall not extend to the municipally owned utility's revenue requirements, whether base rate or fuel revenues, its invested capital, its return on invested capital, its debt service coverage ratio, or the level of any transfer of revenues from the utility to the municipality's general fund.

(2) The City Council or other governing board of a municipally owned utility subject to this subsection shall establish procedures similar to those procedures employed by municipalities which have retained original jurisdiction under section 17 (a) of this Act to regulate public utilities operating within such municipalities' corporate boundaries. Such procedures shall include a public hearing process in which affected ratepayers are granted party status on request and are grouped for purposes of participation in accordance with their common or divergent interests, including but not limited to the particular interests of all-electric and out-of-city residential ratepayers. Provided, however, that nothing in this Act or this subsection shall require the City Council or governing board of the municipally owned utility to which this subsection applies to employ or establish procedures that require the use of the Texas Rules of Evidence, the Texas Rules of Civil Procedure, or the presentation of sworn testimony or other forms of sworn evidence. The City Council or other governing board shall appoint a consumer advocate to represent the interests of residential and small commercial ratepayers in the municipality's local rate proceedings. The consumer advocate's reasonable costs of participation in said proceedings, including the reasonable costs of ratemaking consultants and expert witnesses, shall be funded by and recovered from such residential and small commercial ratepayers.

(3) The Public Utility Commission shall establish rules applicable to any party to an appeal under Subsection (c) of this Section that provide for the public disclosure of financial and in-kind contributions and expenditures related to preparation of and filing of a petition for appeal and in preparation of expert testimony or legal representation for an appeal. Any party or customer who is a member of a party who makes a financial contribution or in-kind contribution to assist in an appeal of another party or customer class under subsection (c) shall be thereafter prohibited from filing an appeal under this section. Nothing in this subsection shall be construed to limit the right of any party or customer to expend funds to represent its own interests following the filing of a petition with the Public Utility Commission under Subsection (c) of this Section.

SECTION 2. Any municipally owned utility which falls under the provisions of this Act on its effective date shall adjust its rates to comply with the provisions of this Act by October 1, 1990 and shall not, during that period, increase base rates for service provided to any independent school district in complying with this Act.

SECTION 3. When contracting with any municipally owned utility which falls under the provisions of this Act, any conservation and reclamation district operating under the Act of February 25, 1975, Chapter 74, 1975 Texas General Laws 179 as presently enacted or hereinafter amended is not subject to the provisions of Section 4A.(b) and Section 4b. of Chapter 166, Acts of the 63rd Legislature, Regular Session, 1973, as amended, notwithstanding any other provisions to the contrary.

SECTION 4. If any provision of this Act or application thereof to any person or circumstance is held invalid, then such invalidity shall not affect other provisions or application of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared severable.

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read and was adopted viva voce vote.

On motion of Senator Montford and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE BILL 911 ON THIRD READING**

Senator Montford moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that C.S.H.B. 911 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE
HOUSE BILL 8 ON SECOND READING**

On motion of Senator Whitmire and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 8, Relating to the forfeiture of certain property related to enumerated felony offenses.

The bill was read second time.

Senator Whitmire offered the following amendment to the bill:

Amend C.S.H.B. 8 by striking everything below the enacting clause and substituting the following:

SECTION 1. The Code of Criminal Procedure is amended by adding Chapter 59 to read as follows:

CHAPTER 59. FORFEITURE OF CONTRABAND

Art. 59.01. DEFINITIONS. In this chapter:

(1) "Attorney representing the state" means the prosecutor with felony jurisdiction in the county in which a forfeiture proceeding is held under this chapter.

(2) "Contraband" means property of any nature, including real, personal, tangible, or intangible, that is:

(A) used or intended to be used in the commission of:

(i) any first or second degree felony under the Penal Code;

(ii) any felony under Chapters 29, 30, and 31, Penal Code;

(iii) any felony under the Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes);

(iv) any felony under Chapter 425, Acts of the 56th Legislature, Regular Session, 1959 (Article 4476-14, Vernon's Texas Civil Statutes);

(v) any felony under The Securities Act (Article 581-1, et seq., Vernon's Texas Civil Statutes);

(B) the proceeds gained from the commission of a felony listed in Paragraph (A) of this subdivision; or

(C) acquired with proceeds gained from the commission of a felony listed in Paragraph (A) of this subdivision.

(3) "Interest holder" means the bona fide holder of a perfected lien or a perfected security interest in property.

(4) "Law enforcement agency" means an agency of the state or an agency of a political subdivision of the state authorized by law to employ peace officers.

(5) "Owner" means a person who claims an equitable or legal ownership interest in property.

(6) "Seizure" means the restraint of property by a peace officer under Article 59.03(a) or (b) of this code, whether the officer restrains the property by physical force or by a display of the officer's authority.

Art. 59.02. FORFEITURE OF CONTRABAND. (a) Property that is contraband is subject to seizure and forfeiture under this chapter.

(b) Any property that is contraband other than property held as evidence in a criminal investigation or a pending criminal case, money, a negotiable instrument, or a security that is seized under this chapter may be replevied by the owner or interest holder of the property, on execution of a good and valid bond with sufficient surety in a sum equal to the appraised value of the property replevied. The bond may be approved as to form and substance by the court after the court gives notice of the bond to the authority holding the seized property. The bond must be conditioned:

(1) on return of the property to the custody of the state on the day of hearing of the forfeiture proceedings; and

(2) that the interest holder or owner of the property will abide by the decision that may be made in the cause.

(c) An owner or interest holder's interest in property may not be forfeited under this chapter if it is established that the owner or interest holder:

(1) acquired and perfected the interest before or during the act or omission giving rise to forfeiture, or if the property is real property he acquired an ownership interest, security interest, or lien interest before a lis pendens notice was filed under Article 59.04(g) of this code; and

(2) did not know and an ordinary prudent person would not reasonably have known that the property was contraband.

(d) On motion by any party, after notice in the manner provided by Article 59.04 of this code to all known owners and interest holders of property subject to forfeiture under this chapter, and after a hearing on the matter, the court may make appropriate orders to preserve and maintain the value of the property until a final disposition of the property is made under this chapter, including the sale of the property if that is the only method by which the value of the property may be preserved until final disposition.

(e) Any property that is contraband and has been seized by the Texas Department of Corrections shall be forfeited to the Texas Department of Corrections under the same rules and conditions as for other forfeitures.

Art. 59.03. SEIZURE OF CONTRABAND. (a) Property subject to forfeiture under this chapter may be seized by any peace officer under authority of a search warrant.

(b) Seizure of property subject to forfeiture may be made without warrant if:

(1) the owner, operator, or agent in charge of the property knowingly consents;

(2) the seizure is incident to a search to which the owner, operator, or agent in charge of the property knowingly consents;

(3) the property subject to seizure has been the subject of a prior judgment in favor of the state in a forfeiture proceeding under this chapter; or

(4) the seizure was incident to a lawful arrest, lawful search, or lawful search incident to arrest.

(c) Property that was not used but was intended to be used in the commission of an offense under Articles 59.01(2)(A)(i), (ii), and (v) of this chapter, may not be forfeited under this chapter unless an interest holder or owner of the property is finally convicted of that offense.

(d) A peace officer who seizes property under this chapter has custody of the property, subject only to replevy under Article 59.02 of this code or an order of a court. A peace officer who has custody of property shall provide the attorney representing the state with a sworn statement that contains a schedule of the property seized, an acknowledgment that the officer has seized the property, and a list of the officer's reasons for the seizure. Not later than 72 hours after the seizure, the peace officer shall:

(1) place the property under seal;

(2) remove the property to a place ordered by the court; or

(3) require a law enforcement agency of the state or a political subdivision to take custody of the property and move it to a proper location.

Art. 59.04. NOTIFICATION OF FORFEITURE PROCEEDING. (a) If a peace officer seizes property under this chapter, the attorney representing the state shall commence proceedings under this section not later than the 30th day after the date of the seizure.

(b) A forfeiture proceeding commences under this chapter when the attorney representing the state files a notice of the seizure and intended forfeiture in the name of the state with the clerk of the district court in the county in which the seizure is made. The attorney representing the state must attach to the notice the peace officer's sworn statement under Article 59.03 of this code. The attorney representing the state shall cause certified copies of the notice to be served on the following persons in the same manner as provided for the service of process by citation in civil cases:

(1) the owner of the property; and

(2) any interest holder in the property.

(c) If the property is a motor vehicle, and if there is reasonable cause to believe that the vehicle has been registered under the laws of this state, the attorney representing the state shall ask the State Department of Highways and Public Transportation to identify from its records the record owner of the vehicle and any interest holder.

(d) If the property is a motor vehicle and is not registered in this state, the attorney representing the state shall attempt to ascertain the name and address of the person in whose name the vehicle is licensed in another state. If the vehicle is licensed in a state that has a certificate of title law, the attorney representing the state shall request the appropriate agency of that state to identify the record owner of the vehicle and any interest holder.

(e) If a financing statement is required by law to be filed to perfect a security interest affecting the property, and if there is reasonable cause to believe that a financing statement has been filed, the attorney representing the state who commences the proceedings shall ask the appropriate official designated by Chapter 9, Business & Commerce Code, to identify the record owner of the property and the person who is an interest holder.

(f) If the property is an aircraft or a part of an aircraft, and if there is reasonable cause to believe that a perfected security instrument affects the property, the attorney representing the state shall request an administrator of the Federal Aviation Administration to identify from the records of that agency the record owner of the property and the holder of the perfected security instrument.

(g) If the property is real property, the attorney representing the state, not later than the third day after the date proceedings are commenced, shall file a lis pendens notice describing the property with the county clerk of each county in which the property is located.

(h) For all other property subject to forfeiture, if there is reasonable cause to believe that a perfected security instrument affects the property, the attorney representing the state shall make a good faith inquiry to identify the holder of the perfected security instrument.

(i) The attorney representing the state who commences the proceedings shall cause the owner and any interest holder to be named as a party and to be served with citation as provided by the Texas Rules of Civil Procedure.

(j) A person who was in possession of the property at the time it was seized shall be made a party to the proceeding.

(k) If no person was in possession of the property at the time it was seized, and if the owner of the property is unknown, the attorney representing the state shall file with the clerk of the court in which the proceedings are pending an affidavit stating that no person was in possession of the property at the time it was seized and that the owner of the property is unknown. The clerk of the court shall issue a citation for service by publication addressed to "The Unknown Owner of _____," filling in the blank space with a reasonably detailed description of the property subject to forfeiture. The citation must contain the other requisites prescribed by and be served as provided by Rules 114, 115, and 116, Texas Rules of Civil Procedure.

(l) Proceedings commenced under this chapter may not proceed to hearing unless the judge who is to conduct the hearing is satisfied that this article has been complied with, and that the attorney representing the state will introduce into evidence at the hearing any answer received from an inquiry required by Subsections (c)-(h) of this article.

Art. 59.05. FORFEITURE HEARING. (a) All parties must comply with the rules of pleading as required in civil suits.

(b) All cases under this chapter shall proceed to trial in the same manner as in other civil cases. The state has the burden of proving by a preponderance of the evidence that property is subject to forfeiture.

(c) It is an affirmative defense to forfeiture under this chapter of property belonging to the spouse of a person whose acts gave rise to the seizure of community property that, because of an act of family violence, as defined by Section 71.01, Family Code, the spouse was unable to prevent the act giving rise to the seizure.

(d) Except as provided by Article 59.03(c) of this code, a final conviction for an underlying felony is not a requirement for forfeiture under this chapter. An owner or interest holder may present evidence of a dismissal or acquittal of an underlying felony in a forfeiture proceeding.

(e) If the court finds that all or any part of the property is subject to forfeiture, the judge shall forfeit the property to the state, with the attorney representing the state as the agent for the state, except that if the court finds that the nonforfeitable interest of an interest holder in the property is valued in an amount greater than or substantially equal to the present value of the property, the court shall order the property released to the interest holder. If the court finds that the interest of an interest holder is valued in an amount substantially less than the present value of the property and that the property is subject to forfeiture, the court shall order the property forfeited to the state with the attorney representing the state acting as the agent of the state, and making necessary orders to protect the interest of the interest holder. On final judgment of forfeiture, the attorney representing the state shall dispose of the property in the manner required by Article 59.06 of this code.

Art. 59.06. DISPOSITION OF FORFEITED PROPERTY. (a) All forfeited property shall be administered by the attorney representing the state, acting as the

agent of the state, in accordance with accepted accounting practices and with the provisions of any local agreement entered into between the attorney representing the state and law enforcement agencies. If a local agreement has not been executed, the property shall be sold on the 75th day after the date of the final judgment of forfeiture at public auction under the direction of the county sheriff, after notice of public auction as provided by law for other sheriff's sales. The proceeds of the sale shall be distributed as follows:

(1) to any interest holder to the extent of the interest holder's interest;

and

(2) the balance, if any, after deductions of all storage costs, to be deposited in the state treasury to the credit of the general revenue fund.

(b) If a local agreement exists between the attorney representing the state and law enforcement agencies, the attorney representing the state may transfer the property to law enforcement agencies to maintain, repair, use, and operate the property for official purposes if the property is free of any interest of an interest holder. The agency receiving the forfeited property may purchase the interest of an interest holder so that the property can be released for use by the agency. The agency receiving the forfeited property may maintain, repair, use, and operate the property with money appropriated for current operations. If the property is a motor vehicle subject to registration under the motor vehicle registration laws of this state, the agency receiving the forfeited vehicle is considered to be the purchaser and the certificate of title shall issue to the agency. The agency at any time may transfer the property to a municipal or county law enforcement agency for the use of that agency.

(c) If a local agreement exists between the attorney representing the state and law enforcement agencies, all money, securities, negotiable instruments, stocks or bonds, or things of value, or proceeds from the sale of those items, shall be deposited according to the terms of the agreement into one or more of the following funds:

(1) a special fund in the county treasury for the benefit of the office of the attorney representing the state, to be used by the attorney solely for the official purposes of his office;

(2) a special fund in the municipal treasury if distributed to a municipal law enforcement agency, to be used solely for law enforcement purposes;

(3) a special fund in the county treasury if distributed to a county law enforcement agency, to be used solely for law enforcement purposes; or

(4) a special fund in the state law enforcement agency if distributed to a state law enforcement agency, to be used solely for law enforcement purposes.

(d) Proceeds awarded under this chapter to a law enforcement agency or to the attorney representing the state are to be spent at the sole discretion of the head of the agency or the attorney. A commissioners court or governing body of a municipality may not use the existence of an award under this chapter to offset or decrease total salaries, and allowances that the agency or the attorney receives from the commissioners court or governing body at or after the time that the proceeds are awarded.

(e) On the sale of contraband under this article, the appropriate state agency shall issue a certificate of title to the recipient if a certificate of title is required for the property by other law.

(f) A final judgment of forfeiture under this chapter perfects the title of the state to the property as of the date that the contraband was seized or the date the forfeiture action was filed, whichever occurred first, except that if the property forfeited is real property, the title is perfected as of the date a notice of lis pendens is filed on the property.

(g) All law enforcement agencies and attorneys representing the state who receive proceeds or property under this Chapter, shall account for the receipt and

disbursement of all such proceeds and property in an audit, which is to be performed annually by the commissioners court or governing body of a municipality, as appropriate. Certified copies of the audit shall be delivered to the Attorney General and to the Governor no later than 30 days after the audit is completed.

Art. 59.07. IMMUNITY. This chapter does not impose any additional liability on any authorized state, county, or municipal officer engaged in the lawful performance of the officer's duties.

Art. 59.08. DEPOSIT OF MONEY PENDING DISPOSITION. (a) If money that is contraband is seized, the attorney representing the state may deposit the money in an interest-bearing bank account in the jurisdiction of the attorney representing the state until a final judgment is rendered concerning the contraband.

(b) If a final judgment is rendered concerning contraband, money that has been placed in an interest-bearing bank account under Subsection (a) of this article shall be distributed in the same manner as proceeds are distributed under Article 59.06 of this code, with any interest being distributed in the same manner and used for the same purpose as the principal.

Art. 59.09. RIGHT TO ATTORNEY NOT TO BE ABRIDGED. This chapter is not intended to abridge an accused person's right to counsel in a criminal case.

Art. 59.10. ELECTION OF LAWS. If property is subject to forfeiture under this chapter and under any other law of this state, the attorney representing the state may bring forfeiture proceedings under either law.

SECTION 2. Section 18.01, Code of Criminal Procedure, is amended by adding Subsections (g) and (h) to read as follows:

(g) A search warrant may not be issued under Subdivision (12), Article 18.02, of this code unless the sworn affidavit required by Subsection (b) of this article sets forth sufficient facts to establish probable cause:

(1) that a specific felony offense has been committed; and

(2) that the specifically described property or items that are to be searched for or seized constitute contraband as defined by Article 59.01 of this code and are located at or on the particular person, place, or thing to be searched.

(h) Only a judge of a municipal court of record who is an attorney licensed by the state or a judge of a statutory county court, district court, the Court of Criminal Appeals, or the Supreme Court may issue a warrant under Subdivision (12), Article 18.02, of this code.

SECTION 3. Article 18.02, Code of Criminal Procedure, is amended to read as follows:

Art. 18.02. GROUNDS FOR ISSUANCE. A search warrant may be issued to search for and seize:

(1) property acquired by theft or in any other manner which makes its acquisition a penal offense;

(2) property specially designed, made, or adapted for or commonly used in the commission of an offense;

(3) arms and munitions kept or prepared for the purposes of insurrection or riot;

(4) weapons prohibited by the Penal Code;

(5) gambling devices or equipment, altered gambling equipment, or gambling paraphernalia;

(6) obscene materials kept or prepared for commercial distribution or exhibition, subject to the additional rules set forth by law;

(7) drugs kept, prepared, or manufactured in violation of the laws of this state;

(8) any property the possession of which is prohibited by law;

(9) implements or instruments used in the commission of a crime;

(10) property or items, except the personal writings by the accused, constituting evidence of an offense or constituting evidence tending to show that a particular person committed an offense; [or]

(11) persons; or

(12) contraband subject to forfeiture under Chapter 59 of this code, other than contraband described by Section 59.03(c) of this code.

SECTION 4. Article 18.17(a), Code of Criminal Procedure, is amended to read as follows:

(a) All unclaimed or abandoned personal property of every kind, other than contraband subject to forfeiture under Chapter 59 of this code and [except] whiskey, wine and beer, seized by any peace officer in the State of Texas which is not held as evidence to be used in any pending case and has not been ordered destroyed or returned to the person entitled to possession of the same by a magistrate, which shall remain unclaimed for a period of 30 days shall be delivered for sale to the purchasing agent of the municipality or county in which the property was seized. If a peace officer of a municipality seizes the property, the peace officer shall deliver the property to the purchasing agent of the municipality. If any other peace officer seizes the property, the peace officer shall deliver the property to the purchasing agent of the county. If the county has no purchasing agent, then such property shall be sold by the sheriff of the county.

SECTION 5. Section 5.08, Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 5.08. DISPOSITION OF FORFEITED PROPERTY. ~~[(a)]~~ Regarding all controlled substances, raw materials, and drug paraphernalia which have been forfeited under Chapter 59, Code of Criminal Procedure, the district court shall by its order direct a law enforcement agency to:

- (1) retain the property for its official purposes;
- (2) deliver the property to a government agency or department for official purposes;
- (3) deliver the property to a person authorized by the court to receive it;
- (4) deliver the property to a person authorized by the director to receive it for a purpose listed in Section 3.03(e) of this Act; or
- (5) destroy the property that is not otherwise disposed in the manner prescribed by Section 5.081 of this Act.

~~[(b)] All other property that has been forfeited, except the money derived from the sale, manufacture, distribution, dispensation, delivery, or other commercial undertaking violative of this Act, and except as provided below, shall be sold at a public auction under the direction of the county sheriff after notice of public auction as provided by law for other sheriff's sales. The proceeds of the sale shall be delivered to the district clerk and shall be disposed of as follows:~~

~~[(1)] to any bona fide lienholder, secured party, or other party holding an interest in the property in the nature of a security interest, to the extent of his interest; and~~

~~[(2)] the balance, if any, after deduction of all storage and court costs, shall be forwarded to the state comptroller and deposited with and used as general funds of the state except as provided by Subsection (f) of this section.~~

~~[(c)] The state or an agency of the state or a political subdivision of the state authorized by law to employ peace officers may maintain, repair, use, and operate for official purposes all property that has been forfeited to it if it is free from any interest of a bona fide lienholder, secured party, or other party who holds an interest in the property in the nature of a security interest. The department or agency receiving the forfeited vehicle may purchase the interest of a bona fide lienholder, secured party, or other party who holds an interest so that the property can be~~

released for use by the department or agency receiving the forfeited vehicle. The department or agency receiving the forfeited vehicle may maintain, repair, use, and operate the property with money appropriated to the department or agency for current operations. If the property is a motor vehicle susceptible of registration under the motor vehicle registration laws of this state, the department or agency receiving the forfeited vehicle is deemed to be the purchaser and the certificate of title shall be issued to it as required by Subsection (e) of this section.

[(d) Storage charges on any property accrued while the property is stored at the request of a seizing officer of the department or agency receiving the forfeited vehicle pending the outcome of the forfeiture proceedings shall be paid by the department or agency out of its appropriations if such property after final hearing is not forfeited to the department or agency.

[(e) The State Department of Highways and Public Transportation shall issue a certificate of title to any person who purchases property under the provisions of this section when a certificate of title is required under the laws of this state.

[(f) All money, securities, certificates of deposit, negotiable instruments, stocks, bonds, businesses or business investments, contractual rights, real estate, personal property and other things of value, and the proceeds from the sale of an item described in this subsection that are forfeited to the seizing agencies of the state or an agency or office of a political subdivision of the state authorized by law to employ peace officers shall be deposited in a special fund to be administered by the seizing agencies or office to which they are forfeited. Except as otherwise provided by this subsection, expenditures from this fund shall be used solely for the investigation of any alleged violations of the criminal laws of this state. The director of an agency of the state may use not more than 10 percent of the amount credited to the fund for the prevention of drug abuse and for treatment of persons with drug-related problems. The director of an agency or office of a political subdivision that has received funds under this section shall comply with the request of the governing body of the political subdivision to deposit not more than 10 percent of the amount credited to the fund into the treasury of the subdivision. The governing body of the subdivision shall use the funds received for the prevention of drug abuse and for treatment of persons with drug-related problems. Nothing in this subsection shall be construed to decrease the total salaries, expenses, and allowances which an agency or office is receiving from other sources at or from the time this subsection takes effect.]

SECTION 6. Sections 5.03, 5.04, 5.05, 5.06, 5.07, and 5.082, Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes), are repealed.

SECTION 7. The change in law made by Sections 1, 2, 3, 4, and 5 of this Act applies only to property that becomes contraband on or after the effective date of this Act. Property that became contraband before that date is covered by the law in effect when it became contraband, and the former law is continued in effect for this purpose.

SECTION 8. This Act takes effect September 1, 1989.

SECTION 9. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read and was adopted viva voce vote.

On motion of Senator Whitmire and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE BILL 8 ON THIRD READING**

Senator Whitmire moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **C.S.H.B. 8** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed viva voce vote.

HOUSE BILL 1992 ON SECOND READING

Senator Caperton asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

H.B. 1992, Relating to contracts between counties and the Texas Board of Corrections and between counties and private vendors for the provision of correctional facilities.

There was objection.

Senator Caperton then moved to suspend the regular order of business and take up **H.B. 1992** for consideration at this time.

The motion prevailed by the following vote: Yeas 20, Nays 9.

Yeas: Armbrister, Bivins, Brooks, Brown, Caperton, Carriker, Dickson, Haley, Harris, Johnson, Krier, Leedom, McFarland, Montford, Parmer, Ratliff, Santiesteban, Sims, Whitmire, Zaffrini.

Nays: Barrientos, Edwards, Glasgow, Green, Lyon, Tejeda, Truan, Uribe, Washington.

Absent: Henderson, Parker.

The bill was read second time.

Senator Washington offered the following amendment to the bill:

(2) Add a new section to be numbered appropriately to read as follows:

SECTION _____, Subchapter F, Chapter 351, Local Government Code, as added by **S.B. 220**, Acts of the 71st Legislature, Regular Session, 1989, is amended by adding Section 351.1035, to read as follows:

Sec. 351.1035, DISADVANTAGED BUSINESSES.

(a) In this section "disadvantaged business" means:

(1) a corporation formed for the purpose of making a profit in which at least 51 percent of all classes of the shares of stock or other equitable securities are owned by one or more persons who are socially disadvantaged because of their identification as members of certain groups, including black Americans, Hispanic Americans, women, Asian Pacific Americans, and American Indians, who have suffered the effects of discriminatory practices or similar insidious circumstances over which they have no control;

(2) a sole proprietorship for the purpose of making a profit that is 100 percent owned, operated, and controlled by a person described by Subdivision (1) of this subsection;

(3) a partnership for the purpose of making a profit in which 51 percent of the assets and interest in the partnership is owned by one or more persons described by Subdivision (1) of this subsection. Those persons must have a

proportionate interest in the control, operation, and management of the partnership's affairs;

(4) a joint venture in which each entity in the joint venture is a disadvantaged business under this subsection or;

(5) a supplier contract between a disadvantaged business under this subsection and a prime contractor under which the disadvantaged business is directly involved in the manufacture or distribution of the supplies or materials or otherwise warehouses and ships the supplies.

(b) It is the goal of the Legislature, that disadvantaged businesses as defined in this section, be given full and complete access to the process whereby contracts are let under this subchapter. It is also an intent of the Legislature that the county and general contractor shall take into consideration participation of disadvantaged businesses having their home office located in this state when awarding contracts.

(c) It is the intent of the Legislature that the county shall:

(1) develop guidelines targeted to disadvantaged businesses in order to inform them fully about the County's contracting and procurement processes and the requirements for their participation in those processes.

(2) develop guidelines to inform disadvantaged businesses of opportunities with the County, including, but not limited to, specific opportunities to submit bids and proposals. Steps that may be appropriate in certain circumstances include mailing requests for proposals or notices inviting bids to all disadvantaged businesses in the county who have requested the County procurement office to place the business on a mailing list.

(3) require prime contractors, as part of their responses to requests for proposals or bids, to make a specific showing of how they intend to utilize participation by disadvantaged businesses as subcontractors.

(4) identify disadvantaged businesses in the county that provide or have the potential to provide supplies, materials, services and equipment to the County; and

(5) identify barriers to participation by disadvantaged businesses in the County's contracting and procurement processes, such as bonding, insurance and working capital requirements that may be imposed on businesses.

WASHINGTON
CAPERTON

The amendment was read and was adopted viva voce vote.

On motion of Senator Caperton and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading viva voce vote.

RECORD OF VOTE

Senator Glasgow asked to be recorded as voting "Nay" on the passage of the bill to third reading.

HOUSE BILL 1992 ON THIRD READING

Senator Caperton moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that H.B. 1992 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 24, Nays 5.

Yeas: Armbrister, Bivins, Brooks, Brown, Caperton, Carriker, Dickson, Glasgow, Haley, Harris, Johnson, Krier, Leedom, Lyon, McFarland, Montford, Parmer, Ratliff, Santiesteban, Sims, Tejada, Truan, Whitmire, Zaffirini.

Nays: Barrientos, Edwards, Green, Uribe, Washington.

Absent: Henderson, Parker.

The bill was read third time and was passed by the following vote: Yeas 19, Nays 10.

Yeas: Armbrister, Bivins, Brooks, Brown, Caperton, Carriker, Dickson, Haley, Harris, Krier, Leedom, McFarland, Montford, Parmer, Ratliff, Santiesteban, Sims, Whitmire, Zaffirini.

Nays: Barrientos, Edwards, Glasgow, Green, Johnson, Lyon, Tejeda, Truan, Uribe, Washington.

Absent: Henderson, Parker.

HOUSE BILL 1293 ON SECOND READING

On motion of Senator Montford and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1293, Relating to the creation of the offense of going on the premises of a racetrack with a firearm, explosive weapon, or illegal knife.

The bill was read second time and was passed to third reading viva voce vote.

HOUSE BILL 1293 ON THIRD READING

Senator Montford moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **H.B. 1293** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed viva voce vote.

MESSAGE FROM THE HOUSE

House Chamber
May 27, 1989

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

S.B. 962, Relating to the regulation of banks. (As substituted and amended)

S.B. 931, Relating to indemnification by the State in certain civil actions. (As amended)

S.B. 1232, Relating to the requirements for a matching grant or linked deposit obtained under programs of the agricultural diversification program. (As substituted)

S.B. 1084, Relating to the amount of liability insurance coverage that may be required to support an indemnity obligation in certain mineral agreements. (As substituted and amended)

S.B. 171, Relating to orders for the protection of the family and to the offense of a violation of an order for the protection of the family. (As substituted and amended)

S.B. 668, Relating to application of the open meetings law and open records law to the Texas Catastrophe Property Insurance Association. (As amended)

S.B. 318, Relating to the procedure for leasing space for State agencies. (As amended)

S.B. 1072, Relating to the regulation of trust companies. (As amended)

S.B. 2, Relating to the authorization, administration, and funding of the financial assistance programs to provide water supply and sewer services in economically distressed areas and to provide adequate local regulation of those water supply and sewer services; providing for the issuance of bonds; providing penalties. (As substituted and amended)

S.B. 832, Relating to regulation of certain third party administrators; providing penalties. (As substituted and amended)

S.B. 1075, Relating to the revision of a subdivision plat in certain incorporated areas of a county. (As amended)

S.B. 644, Relating to the possession or use of a badge, identification card, shoulder emblem, insignia, uniform, marked patrol vehicles, and name of certain municipal law enforcement agencies or of a badge, identification card, shoulder emblem, insignia, uniform, or marked patrol vehicle that are deceptively similar to such an item used by a law enforcement agency of a city with a population of 1,500,000 or more according to the last preceding Federal Census; creating certain offenses relating thereto and authorizing certain injunctive relief. (As amended)

S.B. 1426, Relating to the provision of community services to persons with mental retardation or mental illness and to the regulation of the persons who provide those services. (As amended)

S.B. 1707, Relating to abatement of noise surrounding existing airports. (As amended)

S.B. 1668, Relating to students at risk of dropping out of school and to the parental duty to require school attendance. (As amended)

S.B. 740, Relating to the purchasing, lease, or conversion of motor vehicles by State agencies, school districts and local transit authorities and districts to assure use of compressed natural gas or other alternative fuels. (As amended)

S.B. 61, Relating to the issuance of Texas water development bonds. (As amended)

S.B. 376, Relating to the availability of release on personal bond for certain defendants. (As amended)

S.B. 558, Relating to the issuance of general obligation bonds for projects relating to corrections institutions, youth corrections institutions and mental health and mental retardation institutions. (As substituted)

S.B. 1172, Relating to operation of the State community development review committee under the department of commerce. (As amended)

S.B. 1204, Relating to the operation of vehicles on highways. (As amended)

S.B. 1379, Relating to the creation of judicial districts. (As substituted and amended)

S.B. 1481, Relating to the impact of recent court interpretations of the First and Fourteenth Amendments to the United States Constitution on certain State

taxes, the rulemaking authority of the Comptroller concerning those taxes and penalties imposed on the State taxes. (As amended)

S.B. 1697, Relating to the care and treatment of persons with intractable pain by the use of dangerous drugs or controlled substances; providing a penalty. (As amended)

S.B. 820, Relating to the creation of and issuance of bonds by public facility corporations to purchase the obligations of certain sponsoring local governmental entities.

S.B. 1190, Relating to the franchising of a high-speed rail facility, the creation, powers, and duties of the Texas High-Speed Rail Authority, including the power of eminent domain, and the powers and duties of certain State agencies and political subdivisions with respect to a high-speed rail facility; providing penalties.

S.B. 971, Relating to creation of certain industrial development corporations supported by a tax and having the power to issue bonds and the power of eminent domain.

S.B. 246, Relating to prekindergarten programs for certain children.

S.B. 570, Relating to the sale of American Indian arts and crafts and turquoise; providing criminal penalty.

S.B. 1206, Relating to the establishment of a single State-wide definition for "wetlands" in order to protect the rights of private property owners, and to provide consistency in the identification and classification of land features as wetlands.

S.B. 1571, Relating to the coastal management coordinating responsibilities of the General Land Office.

S.B. 115, Relating to the regulation of the sale or provision of tobacco products; providing penalties.

S.B. 79, Relating to an automobile allowance for district judges.

S.B. 340, Relating to regulation of a public utility that is a party to a collective bargaining agreement.

S.B. 770, Relating to the creation of the Institute of Biosciences and Technology at Texas A&M University.

S.B. 1316, Relating to State oil overcharge funds administration and amending Article 4413 (56), Vernon's Texas Civil Statutes.

S.B. 1607, Relating to waiver of landlord duties; venue for actions under Chapter 92 of the Property Code; maintenance of a rental dwelling in a habitable condition; and utility cutoffs due to a residential landlord's failure to pay utility bills.

S.B. 1621, Relating to voluntary settlement weeks in district, constitutional and statutory county courts and family law courts.

S.B. 1690, Relating to the boundaries of the Real-Edwards Conservation and Reclamation District.

H.B. 1019, Relating to establishment of a lien.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

HOUSE BILL 1237 ON SECOND READING

On motion of Senator Green and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1237, Relating to certain circumstances for denial of an application for the issuance, amendment, renewal, or transfer of a permit by certain state agencies.

The bill was read second time and was passed to third reading viva voce vote.

HOUSE BILL 1237 ON THIRD READING

Senator Green moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **H.B. 1237** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed viva voce vote.

HOUSE BILL 1860 ON SECOND READING

Senator Green asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

H.B. 1860, Relating to the issuance of bonds and for state financing of the development and production of Texas products and businesses.

There was objection.

Senator Green then moved to suspend the regular order of business and take up **H.B. 1860** for consideration at this time.

The motion prevailed by the following vote: Yeas 28, Nays 1.

Nays: Leedom.

Absent: Harris, Henderson.

The bill was read second time.

Senator Green offered the following amendment to the bill:

Amend **H.B. 1860** as follows:

Amend **H.B. 1860** on page 3, line 47 by deleting the words 'The advisory board' and substituting in lieu thereof the words 'On recommendation of the advisory board, the department'; and

on page 3, line 56 by deleting the words 'governing board of the Texas Department of Commerce' and inserting in lieu thereof the word 'department'; and

on page 3, line 59 by deleting the words 'the board' and inserting in lieu thereof the word 'department'; and

on page 4, line 5 by deleting the word 'board' and inserting in lieu thereof the word 'department'; and

on page 4, line 13 by deleting the number '\$45' and inserting in lieu thereof the number '\$25'; and

on page 6, line 60, and on page 11, line 22, and on page 5, line 22 delete the words 'HJR 70' and inserting in lieu thereof the words 'HJR 51'.

The amendment was read and was adopted viva voce vote.

On motion of Senator Green and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading viva voce vote.

HOUSE BILL 1860 ON THIRD READING

Senator Green moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **H.B. 1860** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 2.

Yeas: Armbrister, Barrientos, Bivins, Brooks, Brown, Caperton, Carriker, Dickson, Edwards, Glasgow, Green, Haley, Harris, Henderson, Johnson, Krier, Lyon, McFarland, Montford, Parker, Parmer, Ratliff, Santiesteban, Sims, Tejada, Truan, Uribe, Whitmire, Zaffirini.

Nays: Leedom, Washington.

The bill was read third time and was passed viva voce vote.

RECORD OF VOTE

Senator Leedom asked to be recorded as voting "Nay" on the final passage of the bill.

MOTION TO PLACE HOUSE BILL 2931 ON SECOND READING

Senator Sims asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

H.B. 2931, Relating to certain membership fees paid by regional planning commissions, councils of governments, and similar regional planning agencies.

There was objection.

Senator Sims then moved to suspend the regular order of business and take up **H.B. 2931** for consideration at this time.

The motion was lost by the following vote: Yeas 15, Nays 11. (Not receiving two-thirds vote of Members present)

Yeas: Armbrister, Barrientos, Brooks, Brown, Carriker, Edwards, Johnson, Leedom, Lyon, McFarland, Santiesteban, Sims, Uribe, Washington, Whitmire.

Nays: Bivins, Dickson, Glasgow, Green, Haley, Krier, Parmer, Ratliff, Tejada, Truan, Zaffirini.

Absent: Caperton, Harris, Henderson, Montford, Parker.

HOUSE BILL 1614 ON SECOND READING

Senator Santiesteban asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

H.B. 1614, Relating to the authority of a county, on a local-option basis, to charge admission fees for county parks and the disposition of those fees.

There was objection.

Senator Santiesteban then moved to suspend the regular order of business and take up **H.B. 1614** for consideration at this time.

The motion prevailed by the following vote: Yeas 20, Nays 7.

Yeas: Armbrister, Barrientos, Brown, Carriker, Dickson, Glasgow, Haley, Johnson, Krier, Leedom, Lyon, McFarland, Parker, Ratliff, Santiesteban, Sims, Tejeda, Truan, Uribe, Zaffirini.

Nays: Bivins, Brooks, Edwards, Green, Parmer, Washington, Whitmire.

Absent: Caperton, Harris, Henderson, Montford.

The bill was read second time.

Senator Santiesteban offered the following amendment to the bill:

Floor Amendment No. 1

Substitute the following Section 5 for the existing Section 5 and renumber the existing Section 5 as Section 6:

Section 5. Add Chapter 334 to the Local Government Code to read as follows:

SECTION 334.01. DEFINITIONS. Wherever used in this Chapter 334 unless a different meaning clearly appears in the context, the following terms, whether singular or plural, shall mean as follows:

(1) "Board of directors" shall mean the board of directors of any parks and recreation district organized pursuant to the provisions of this Chapter.

(2) "Commissioners Court" shall mean the Commissioners Court of the County which creates a parks and recreation district.

(3) "Cost" as applied to a project shall mean the cost of acquisition, construction, reconstruction, improvement, and expansion, including the cost of acquisition of all land, rights-of-way, property rights, easements, and interests, the cost of all machinery and equipment, financing charges, interest prior to and during construction and for one year after completion of construction whether or not capitalized, necessary reserve funds, cost of estimates and of engineering and legal services, plans, specifications, surveys, estimates of cost and of revenue, other expenses necessary or incident to determining the feasibility and practicability of acquiring, constructing, reconstructing, improving, and expanding any such project, administrative expense and such other expense as may be necessary or incident to the acquisition, construction, reconstruction, improvement, and expansion thereof, the placing of the same in operation, and the financing or refinancing of any such project, including the refunding of any outstanding obligations, mortgages, or advances issued, made or given by any person for any of the aforementioned costs.

(4) "County" shall mean a county of this state with a population of 350,000 or more according to the most recent federal decennial census.

(5) "District" shall mean a parks and recreation district established under authority of this Chapter.

(6) "Governing body" shall mean the board, council, commissioners court, or legislative body of the governmental entity.

(7) "Parks" shall mean one or more facility, available to the public, at which any one or more of the following activities is available:

(a) Playground;

(b) Picnic grounds;

(c) Sports, including but not limited to, baseball, basketball, football, soccer, volleyball, golf, tennis, jogging, hiking, running, walking, biking, horseshoe pitching, washer pitching, swimming, diving, boating, rowing, sailing, archery, all rodeo events, track and field events or any other sport sanctioned by the National Collegiate Athletic Association or the International Olympic Committee;

(d) Preservation, collection or appreciation of natural, archeological or historic attractions including wildflowers, rivers and streams, caves, grottos, lakes, canyons, marshes, wetlands, bayous, shorelines, forests, birds, fish, reptiles, animals, wildlife, butterflies and insects, fossils, sites of activity by prehistoric animals and man, sites at which events important to the history of Texas or the United States of America occurred, historic landmarks and buildings, and museums within which any natural, archeological or historic activity is studied or made available to the public;

(e) Community events including but not limited to, livestock shows, celebrations of national, state and local holidays, exhibitions by service organizations and other entities, and any event sanctioned by the University Interscholastic League for competition.

(8) "Project" shall mean the land, buildings, equipment, facilities, and improvements found by the board of directors to be required or suitable for the promotion of parks or recreation, together with the infrastructure necessary or appropriate to the utilization of the projects, such as transportation facilities (including but not limited to roads and parking facilities), sewage or solid waste disposal facilities, facilities for the furnishing of water, electricity or natural gas to the project, and facilities which are related to any of the foregoing, and in furtherance of the public purposes of this Chapter.

(9) "Recreation" shall mean any one or more of the following activities:

(a) Any of the activities identified under the definitions of "parks" in subsection 3 (8) of this Chapter;

(b) Education and entertainment, including, but not limited to, concerts, lectures, exhibitions, county fairs, trade shows, conventions, speeches, plays, movies, ballet, square dancing, fiestas, pageants, performances by actors and entertainers or other events, approved by the Board of Directors, which would enhance economic activity within the county.

Notwithstanding anything contained in this Chapter to the contrary, neither the definition of "parks" nor the definition of "recreation" shall include horse racing, dog racing or any other activity which must be licensed by the Texas Racing Commission.

(10) "Resolution" shall mean the resolution, order or other official action by the governing body of a governmental entity.

(11) "Bonds" includes bonds, notes, and other obligations.

SECTION 334.02. CREATION OF PARKS AND RECREATION DISTRICT. The Commissioners Court of each county with a population of 350,000 or more according to the most recent federal decennial census shall have the authority, pursuant to the provisions of this Chapter, to create one or more parks and recreation districts (the "Districts") over all or any portion of the county. The creation of the District shall occur upon the adoption of a resolution ("Creation Resolution") by the Commissioners Court which incorporated each of the following features:

(a) Identifies the boundaries of the District;

(b) Names the District;

(c) Names the five (5) members of Board of Directors of the District;

(d) Finds that the District is feasible and necessary to advance the purposes of this Chapter;

(e) Contains any other provision deemed necessary or appropriate by the Commissioners Court to reinforce the county's supervisory role of the District, including but not limited to provisions which accomplish any of the following purposes:

(i) Establishes a "sunset" date on which the District will cease to exist unless the Commissioners Court extends its duration;

(ii) Requires periodic reporting to the Commissioners Court;
(iii) Sets limitations upon the ability of the District to enter into contracts, expend funds or incur debt without the prior approval of the Commissioners Court;

(iv) Defines conditions which must be accepted by the District before the District can exercise any one or more of the powers set forth in this Chapter;

(f) Identifies the two (2) members of the Board of Directors who will serve an initial term of one (1) year. All other members of the Board of Directors of the District, including the two (2) Directors appointed by the Commissioners Court at the end of the 1-year initial term, will have a 2-year term of office.

SECTION 334.03. POLITICAL SUBDIVISION. Each District is, at the time of the adoption of the resolution creating it, a body corporate and political subdivision of the State of Texas. Each District shall have, subject to the provisions of the creation resolution, all of the rights, power and authority granted by this Chapter to a parks and recreation district.

SECTION 334.04. ORGANIZATIONAL MEETING OF BOARD OF DIRECTORS. An organizational meeting of the Board of Directors named in the creation resolution shall be held at the call of a majority of the Board of Directors for the purpose of adopting bylaws and electing officers and for such other purposes as may come before the meeting. The members of the Board of Directors calling the meeting shall give notice thereof by mail to each director named in the creation resolution, which notice shall state the time and place of the meeting and shall be mailed, postage prepaid, not less than five days prior to the time of such meeting.

SECTION 334.05. BOARD OF DIRECTORS. The affairs of the District shall be managed by its Board of Directors, subject to the terms of the creation resolution. The Board of Directors shall consist of five (5) natural persons, each of whom shall be appointed by the Commissioners Court and each of whom shall be removable by the Commissioners Court for cause or at will. Each Director shall hold office for the term for which he is appointed and thereafter until his successor shall have been appointed and qualified unless sooner removed. The Directors shall serve as such without compensation except that they shall be reimbursed for their actual expenses incurred in the performance of their duties hereunder.

SECTION 334.06. BYLAWS. The initial bylaws of a District shall be adopted by its Board of Directors. The power to alter, amend, or repeal the bylaws or to adopt new bylaws shall be vested in the Board of Directors. The bylaws may contain any provisions for the regulation and management of the affairs to the District not inconsistent with law or with the creation resolution. The initial bylaws and all amendments thereto, substitutes therefor, and repeals thereof shall be subject to the approval of the Commissioners Court.

SECTION 334.07. OFFICERS. The officers of the District shall consist of a president, a vice-president, and a secretary, and such officers may include a treasurer and such other officers and assistant officers as may be deemed necessary, each of whom shall be elected or appointed at such time and in such manner and for such terms as may be prescribed in the bylaws. In the absence of any such provisions, all officers shall be elected or appointed annually by the Board of Directors. Any officer elected or appointed may be removed by the persons authorized to elect or appoint such officer whenever in their judgment the best interest of the District will be served thereby.

SECTION 334.08. RIGHTS AND POWERS OF DISTRICT. Each District established under the provisions of this Chapter shall have the following expressed powers, subject to the terms of the creation resolution:

(1) to provide or cause to be provided by a user by acquisition (whether by purchase, devise, gift, lease, lease-purchase, or any one or more of such methods), construction, or improvements, one or more parks and recreation projects located

within or partially within the boundaries of the County on behalf of which the District was created;

(2) to lease as lessor or lessee all or any part of any project for such rentals and upon such terms and conditions as the District may deem advisable and as are not in conflict with the provisions of this Chapter;

(3) to sell for installment payments or otherwise, or option or contract for sale, and to convey all or any part of any project for such price and upon such terms and conditions as the District may deem advisable and as are not in conflict with the provisions of this Chapter;

(4) to make contracts and incur liabilities, borrow money at such rates of interest as the District may determine, issue its bonds in accordance with the provisions of this Chapter, and secure any of its bonds or obligations by mortgage or pledge of all of any or its property, franchises, and income;

(5) to make secured or unsecured loans for the purpose of providing temporary or permanent financing or refinancing of all or part of the cost of any project, including the refunding of any outstanding obligations, mortgages, or advances issued, made, or given by any person for the cost of a project, and to charge and collect interest on such loans for such loan payments and upon such terms and conditions as the Board of Directors of such District may deem advisable and as are not in conflict with the provisions of this Chapter;

(6) to lend money for its corporate purposes, invest and reinvest its funds, and take and hold real and personal property as security for the payment of funds so loaned or invested;

(7) to purchase, receive, lease, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with real or personal property or any interest therein, wherever situated, as the purposes of the District shall require or as shall be donated to it;

(8) to sell, convey, mortgage, pledge, lease, exchange, transfer, and otherwise dispose of all or any part of its property and assets;

(9) To elect or appoint officers and agents of the District for such period of time as the District may determine and define their duties and to employ independent legal counsel, engineers and financial advisors;

(10) to sue and be sued, complain and defend, in its own name;

(11) to have a seal which may be altered at its pleasure and to use the same by causing it or a facsimile thereof to be impressed on, affixed to, or in any manner reproduced upon instruments of any nature required or authorized to be executed by its proper officers;

(12) to make and alter bylaws not inconsistent with the laws of this state for the administration and regulation of the affairs of the District, provided that such bylaws and all amendments thereto are approved by resolution of the County on which created the District;

(13) to cease its corporate activities and terminate its existence by dissolution as provided herein; and

(14) whether included in the foregoing or not, to have and exercise all powers necessary to appropriate to effect any or all of the purposes for which the corporation is organized.

SECTION 334.09. CONVEYANCE OF LAND. Any district may convey land by deed, with or without the seal of the District, signed by the president or vice-president when authorized by appropriate resolution of the board of directors. Such deed, when acknowledged by such officer to be the act of the District or proved in the manner prescribed for other conveyances of land, may be recorded in like manner and with the same effect as other deeds. Any such deed when recorded, if signed by the president or any vice-president of the corporation, shall constitute prima facie evidence that such resolution of the board of directors was duly adopted.

SECTION 334.10. CONTRACT FOR ALLOCATION OF TAXES AND REVENUES. The county shall have the right, power, and authority to enter into a contract with a District by which a portion of the County's collection of taxes and non-tax revenues within the boundaries of the District would be made available to the District for any of the District's statutory purposes. All or any portion of the proceeds could be used by the District to repay obligations incurred, or bonds issued, by the District with the prior written approval of the Commissioners Court. If all of the procedures necessary for the County to impose and collect the taxes or non-tax revenues have been followed, no additional election or procedure shall be necessary for the taxes or non-tax revenues to be allocated to the District by the County other than to approve the terms of the contract with the District, nor shall an additional election be necessary for the District to use the proceeds to repay obligations incurred or bonds issued, by the District. Non-tax revenues may be allocated by the County and pledged by the District to repay revenue bonds. Any obligation of the District which is repaid from tax revenues must be subject to termination at the end of any fiscal period if the County does not extend its obligations to collect the tax through the next fiscal period. Nothing in this Section or this Act shall authorize the County to impose taxes or collect revenues in addition to the taxes and revenues it is already authorized by law to impose or collect. Nor shall anything in this Section or in this Chapter authorize the District to impose taxes.

SECTION 334.11. COUNTY APPROVAL OF BONDS. (a) At least 30 days prior to the issuance of bonds by a District, such District shall file with the County which created the District a full and complete description of any project the cost of which is to be paid in whole or in any part from the proceeds of bonds of the District proposed to be issued, including an explanation of the projected costs of and the necessity for such proposed project and the name of the proposed user of such project.

(b) After a District issues bonds, but before the District uses all of the proceeds from the bonds, the District may amend the filing required by Subsection (a) of this section and use the proceeds in the manner described in the amended filing if, in the judgment of the Commissioners Court, the use of the proceeds in the manner described in the amended filing is in furtherance of the purposes of this Chapter.

(c) All of the information deposited or required to be deposited by this section shall be public information open to public inspection.

(d) The Commissioners Court of the county which created the District shall, prior to the date of the issuance of bonds by the District, consider the information filed with it and approve or disapprove the issuance of bonds.

SECTION 334.12. BONDS. (a) Each District is hereby authorized to issue, sell, and deliver its bonds in accordance with the terms of this Chapter for the purpose of paying all or any part of the cost of a project.

(b) The bonds shall be dated, shall bear interest at such rate or rates (fixed or variable), shall mature at such time or times not exceeding 40 years from their date, and may be made redeemable prior to maturity at such price or prices and upon such terms and conditions as may be determined by the District. The bonds, including any interest coupons to be initially attached thereto, shall be in such form and denomination or denominations and payable at such place or places, and may be executed or authenticated in such manner, as the District may determine. In cases where any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of and payment for such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery and payment. The bonds may be issued in coupon or in registered form, or both, or any payable to a specific person, as the District may

determine, and provision may be made for the registration of any coupon bonds as to principal alone, for the conversion of coupon bonds of any fully registered bonds without coupons. The duty of conversion reconversion may be imposed upon a trustee in a trust agreement.

(c) The principal of, redemption premium, if any, and interest on such bonds shall be payable solely from and may be secured by a pledge of all or any part of the proceeds of bonds, revenues derived from a contract with the County which created the District, revenues derived from the lease or sale of a project or realized from a loan District to finance or refinance in whole or in part a project revenues derived from operating a project, or any other revenues as may be provided by a user of a project.

(d) The District shall sell the bonds at such price as it shall determine, at public or private sale. The net effective interest rate, calculated in accordance with Chapter 3, Acts of the 61st Legislature, Regular Session, 1969, as amended (Article 717k-2, Vernon's Texas Civil Statutes), on any bonds may not exceed a rate equal to the maximum annual interest rate established by Article 717k-2, Vernon's Texas Civil Statutes, as amended.

(e) The proceeds of the bonds of each issue shall be used solely for the payment of all or part of the cost of, or for the making of a loan in the amount of all or part of the cost of, the project for which such bonds have been authorized and, at the option of the District for the deposit to a reserve fund or reserve funds for the bonds. Such proceeds shall be disbursed in such a manner and under such restrictions, if any, as may be determined by the District. Each District shall be paid out of money from the proceeds of the sale and delivery of its bonds issued in accordance with this Chapter an amount of money equal to all of such District's out-of-pocket expenses and costs in connection with the issuance, sale, and delivery of such bonds, including without limitation all financing, legal, financial advisory, printing, and other expenses and costs in issuing such bonds, plus an amount of money equal to the compensation paid to any employees of such District for the time such employees have spent on activities relating to the issuance, sale, and delivery of such bonds.

(f) Prior to the preparation or issuance of definitive bonds, the District may issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. Such interim receipts or temporary bonds shall be for a maximum term of three years.

SECTION 334.13. REFUNDING BONDS. Each District is hereby authorized to issue, sell, and deliver its bonds for the purpose of refunding any bonds of the District then outstanding, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds. The issuance of such bonds, the maturities and other terms thereof, the rights of the holders thereof, and the rights, duties, and obligations of the District in respect thereof shall be governed by the provisions of this Chapter insofar as the same shall be applicable. Within the discretion of the District, such refunding bonds may be issued in exchange or substitution for outstanding bonds or may be sold and the proceeds used for the purpose of paying or redeeming outstanding bonds.

SECTION 334.14. LIMITATION OF OBLIGATION ON BONDS. Bonds issued in accordance with the provisions of this Chapter shall not constitute obligations of the State of Texas, or any other political subdivision or agency of this state or a pledge of the faith and credit of any of them other than the District. All such bonds shall contain on the face thereof a statement to the effect that (1) neither the State of Texas nor any political subdivision or agency of the State of Texas, other than the District, shall be obligated to pay the same or the interest thereon and (2) neither the faith and credit nor the taxing power of the State of Texas, or any other

political subdivision or agency thereof, other than the District, is pledged to the payment of the principal of, redemption premium, if any, or interest on such bonds.

SECTION 334.15. EXEMPT SECURITIES. Any bonds issued by a District under the provisions of this Chapter and coupons, if any, representing interest thereon, shall be exempt securities under the Texas Securities Act, as amended (Article 581-1 et seq., Vernon's Texas Civil Statutes). If, however any bonds issued by a District under this Chapter are secured by an agreement by a user to pay to the District amounts sufficient to pay the principal of, redemption premium, if any, and interest on such bonds shall be exempt securities, such an agreement by a user shall be deemed to be a separate security issued by such user, and not by such District, to the purchasers of such bonds for the purposes of the provisions of the Texas Securities Act and shall be exempt from the provisions of such act only (1) if such security is an exempt security pursuant to the terms of such act or (2) if such bonds or the payments to be made under such agreement are guaranteed by any person and such guarantee is an exempt security pursuant to the terms of such act.

SECTION 334.16. QUALIFIED INVESTMENTS. Unless the bonds issued under this Chapter are ineligible for investments in accordance with criteria established in other statutes, rulings, or regulations of the State of Texas or the United States, the bonds issued under this Chapter shall be and are hereby declared to be legal and authorized investments for any banks; savings banks; trust companies; building and loan associations; insurance companies; fiduciaries; trustees and guardians; and sinking funds for cities, towns, villages, counties, school districts, and other political corporations or subdivisions of the State of Texas. Such bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas and any and all public funds of cities, towns, villages, counties, school districts, and other political corporations or subdivisions of the State of Texas, and they shall be lawful and sufficient security for said deposits at their face value when accompanied by all unmatured coupons, if any, appertaining thereto.

SECTION 334.17. PERFECTION OF SECURITY INTEREST. Any security interest granted by a corporation may be perfected in the manner and with the effect specified in Chapter 9, Uniform Commercial Code-Secured Transactions, as amended, any provision in Article 9.104, as amended, of such code to the contrary notwithstanding.

SECTION 334.18. TAXATION. It is hereby declared as a matter of public policy that every District organized under the authority of this Chapter shall be engaged exclusively in the performance of governmental functions and shall be exempt from all taxation by this state and every municipal corporation and political subdivision hereof. All bonds issued by a District hereunder, their transfer, the interest thereon, and any profits from the sale or exchange thereof shall at all times be free from taxation by this state or any municipal corporation or political subdivision hereof.

SECTION 334.19. DISSOLUTION. (a) Whenever all bonds and obligations of a District have been paid and discharged or adequate provision had been made therefor and the Commissioners Court of the County which created the District shall have by written resolution authorized and directed the dissolution of the District, the District shall be dissolved as hereinafter provided.

(b) A resolution of dissolution shall be executed by the District by its president or a vice-president and by its secretary or an assistant secretary or by the County Judge of the County which created the District, verified by one of the officers signing such articles, and shall set forth:

(1) the name of the District;

(2) a statement that dissolution of the District has been authorized by the County, and the date of the meeting at which such dissolution was so authorized.

(3) a statement that all bonds and obligations of the District have been paid and discharged or that adequate provision has been made therefor; and

(4) a statement that there are no suits pending against the District in any court or that adequate provision has been made for the satisfaction of any judgment, order, or decree which may be entered against it in any pending suit.

(c) The original and two copies of such resolution of dissolution shall be published in a newspaper of general circulation in the County.

(d) Dissolution shall be effective immediately upon passage of the resolution, and the title of all funds, properties and rights then owned by such District shall automatically vest in the County which created the District without any further conveyance, transfer, or act of any kind whatsoever.

SECTION 334.20. CUMULATIVE EFFECT. This Chapter shall be cumulative of all other laws on the subject, but this Chapter shall be wholly sufficient authority within itself for the creation of any District authorized herein and all actions by such District authorized hereby without reference to any other general or special laws or specific acts or any restrictions or limitations contained therein; provided, however, that any sponsoring entity and any District shall have the right to use the provisions of any other laws not in conflict with the provisions hereof to the extent convenient or necessary to carry out any power or authority, express or implied, granted by this Chapter. No proceedings, notice, or approval shall be required for the organization of a District or the issuance of any bonds or any instruments as security therefor, except as herein provided, any other law to the contrary notwithstanding; provided that nothing herein shall be construed to deprive this state and its municipal corporations and political subdivisions of their respective police powers over any properties of such District or to impair any police powers thereof of any official or agency of this state and its municipal corporations and political subdivisions as may be otherwise provided by law.

SECTION 334.21. CONSTRUCTION OF CHAPTER; ALTERNATIVE PROCEDURES. Nothing in this Chapter shall be construed so as to violate any provision of the Constitution of the State of Texas or of the United States, and all acts done under this Chapter shall be in such manner as will conform thereto, whether expressly provided for or not. If any procedure hereunder may be held by any court to be violative of either of such constitutions, a District shall have the power by resolution to provide an alternative procedure conforming with such constitutions.

The amendment was read.

Senator Washington offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 2

Amend Floor Amendment No. 1 to H.B. 1614 on page 2, Subsection (4), by adding a sentence to read as follows, replacing the period (.), with a comma (,) after the word "census":

but does not include a county with a city of 800,000 people or more, according to the last census.

The amendment was read and was adopted viva voce vote.

Senator Johnson offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 3

Amend Floor Amendment No. 1 to H.B. 1614 as follows:

Add a new section to be numbered appropriately to read as follows:

DISADVANTAGED BUSINESSES.

(a) In this section “disadvantaged business” means:

(1) a corporation formed for the purpose of making a profit in which at least 51 percent of all classes of the shares of stock or other equitable securities are owned by one or more persons who are socially disadvantaged because of their identification as members of certain groups, including black American, Hispanic Americans, women, Asian Pacific Americans, and American Indians, who have suffered the effects of discriminatory practices or similar insidious circumstances over which they have no control;

(2) a sole proprietorship for the purpose of making a profit that is 100 percent owned, operated, and controlled by a person described by Subdivision (1) of this subsection;

(3) a partnership for the purpose of making a profit in which 51 percent of the assets and interest in the partnership is owned by one or more persons described by Subdivision (1) of this subsection. Those persons must have a proportionate interest in the control, operation, and management of the partnership’s affairs;

(4) a joint venture in which each entity in the joint venture is a disadvantaged business under this subsection or;

(5) a supplier contract between a disadvantaged business under this subsection and a prime contractor under which the disadvantaged business is directly involved in the manufacture or distribution of the supplies or materials or otherwise warehouses and ships the supplies.

(b) It is the goal of the Legislature, that disadvantaged businesses as defined in this section, be given full and complete access to the process whereby contracts are let under this subchapter. It is also an intent of the Legislature that the state and general contractor shall take into consideration participation of disadvantaged businesses having their home office located in this state when awarding contracts.

(c) It is the intent of the Legislature that the state shall:

(1) develop guidelines targeted to disadvantaged businesses in order to inform them fully about the State’s contracting and procurement processes and the requirements for their participation in those processes.

(2) develop guidelines to inform disadvantaged businesses of opportunities with the state, including, but not limited to, specific opportunities to submit bids and proposals. Steps that may be appropriate in certain circumstances include mailing requests for proposals or notices inviting bids to all disadvantaged businesses in the state who have requested the state procurement office to place the business on a mailing list.

(3) require prime contractors, as part of their responses to requests for proposals or bids, to make a specific showing of how they intend to utilize participation by disadvantaged businesses as subcontractors.

(4) identify disadvantaged businesses in the state that provide or have the potential to provide supplies, materials, services and equipment to the State; and

(5) identify barriers to participation by disadvantaged businesses in the State’s contracting and procurement processes, such as bonding, insurance and working capital requirements that may be imposed on businesses.

The amendment was read and was adopted viva voce vote.

Senator Santiesteban offered the following amendment to the bill:

Floor Amendment No. 4

Amend the caption of **H.B. 1614** by adding the following after the word "fees" on line 4:

relating to creation, operation and financing of parks and recreation districts by certain counties; authorizing certain counties to enter into contracts with parks and recreation districts for maintenance and other services; specifying the manner in which a parks and recreation district will be governed; authorizing the issuance of bonds, notes and other obligations by a parks and recreation district; stipulating the rights, power and authority of a parks and recreation district; containing other provisions; declaring an emergency and providing for an immediate effective date.

The amendment was read and was adopted viva voce vote.

Question recurring on the adoption of Floor Amendment No. 1 as amended, the amendment was adopted viva voce vote.

The bill as amended was passed to third reading viva voce vote.

RECORD OF VOTE

Senator Parmer asked to be recorded as voting "Nay" on the passage of the bill to third reading.

HOUSE BILL 1614 ON THIRD READING

Senator Santiesteban moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **H.B. 1614** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 24, Nays 3.

Yeas: Armbrister, Barrientos, Brooks, Brown, Carriker, Dickson, Glasgow, Green, Haley, Johnson, Krier, Leedom, Lyon, McFarland, Parker, Parmer, Ratliff, Santiesteban, Sims, Tejada, Truan, Uribe, Whitmire, Zaffirini.

Nays: Bivins, Edwards, Washington.

Absent: Caperton, Harris, Henderson, Montford.

The bill was read third time and was passed by the following vote: Yeas 24, Nays 3.

Yeas: Armbrister, Barrientos, Brooks, Brown, Carriker, Dickson, Glasgow, Green, Haley, Johnson, Krier, Leedom, Lyon, McFarland, Parker, Ratliff, Santiesteban, Sims, Tejada, Truan, Uribe, Washington, Whitmire, Zaffirini.

Nays: Bivins, Edwards, Parmer.

Absent: Caperton, Harris, Henderson, Montford.

SENATE RULE 5.14(a) SUSPENDED

On motion of Senator Brooks and by unanimous consent, the portion of the Intent Calendar rule relating to the limitation of five bills was suspended.

(President in Chair)

**COMMITTEE SUBSTITUTE
HOUSE BILL 863 ON SECOND READING**

Senator Parker asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

C.S.H.B. 863, Relating to the continuation of the Texas Department of Labor and Standards under the new name, the Texas Department of Licensing and Regulation, and to the administration and functions of that department; making appropriations; providing penalties.

There was objection.

Senator Parker then moved to suspend the regular order of business and take up **C.S.H.B. 863** for consideration at this time.

The motion prevailed by the following vote: Yeas 22, Nays 2.

Yeas: Armbrister, Barrientos, Bivins, Brooks, Brown, Glasgow, Haley, Johnson, Krier, Leedom, Lyon, McFarland, Parker, Parmer, Ratliff, Santiesteban, Sims, Truan, Uribe, Washington, Whitmire, Zaffirini.

Nays: Green, Tejeda.

Absent: Caperton, Carriker, Dickson, Edwards, Harris, Henderson, Montford.

The bill was read second time.

Senator McFarland offered the following amendment to the bill:

Floor Amendment No. 1

Amend **C.S.H.B. 863** as follows:

Section 1. Amend **C.S.H.B. 863** by striking and deleting the sentence which begins on line 52 of page 1 of **C.S.H.B. 863** with the words "Two members shall be....".

Section 2. Amend **C.S.H.B. 863** by amending subsection (q) which begins on line 59 of page 15 of **C.S.H.B. 863** to read as follows:

(q) Notwithstanding any provision of this section to the contrary a bank, savings and loan association, savings bank, or credit union domiciled in this state is not required to be registered as a retailer to sell, exchange, or lease-purchase up to seven ~~[three]~~ repossessed manufactured homes to consumers in any consecutive 12 month period; provided, that such bank, savings and loan association, savings bank, or credit union is the lienholder of record on a document of title issued by the department at the time of repossession.

The amendment was read and was adopted viva voce vote.

Senator Armbrister offered the following amendment to the bill:

Floor Amendment No. 2

Amend **C.S.H.B. 863** as follows: Strike the text proposed to be added to page 86, lines 11 and 12. Strike SECTION 3A in its entirety.

The amendment was read and was adopted viva voce vote.

Senator Brooks offered the following amendment to the bill:

Floor Amendment No. 3

Amend C.S.H.B. 863 as follows:

(1) Strike SECTION 2.38 of the bill and substitute the following:

SECTION 2.38. Section 2, Vehicle Storage Facility Act (Article 6687-9a, Revised Statutes), is amended to read as follows:

Sec. 2. DEFINITIONS. In this article:

(1) "Commissioner" means the commissioner of licensing and regulation.

(2) "Department" means the Texas Department of Licensing and Regulation ~~[Labor and Standards]~~.

(3) ~~[(2)]~~ "Vehicle storage facility" means a garage, parking lot, or any type of facility owned by a person other than a governmental entity for storing or parking 10 or more vehicles.

(4) ~~[(3)]~~ "Vehicle" means a motor vehicle subject to registration under the Certificate of Title Act (Article 6687-1, Vernon's Texas Civil Statutes) or any other device designed to be self-propelled or transported on a public highway.

(5) ~~[(4)]~~ "Owner of a vehicle" means:

(A) a person in whose name the vehicle is registered under the Certificate of Title Act (Article 6687-1, Vernon's Texas Civil Statutes);

(B) a person in whose name the vehicle is registered under Section 2, Chapter 88, General Laws, Acts of the 41st Legislature, 2nd Called Session, 1929 (Article 6675a-2, Vernon's Texas Civil Statutes), or a member of the person's immediate family;

(C) a person who holds the vehicle through a valid lease agreement; or

(D) an unrecorded lienholder whose right to possess the vehicle exists through a chattel mortgage.

(6) "Principal" means an individual who:

(A) holds personally or as a beneficiary of a trust or by other constructive method:

(i) 10 percent of a corporation's outstanding stock; or

(ii) more than \$25,000 of the fair market value of a business;

(B) has the controlling interest in a business;

(C) has a participating interest of more than 10 percent in the profits, proceeds, or capital gains of a business, regardless of whether the interest is direct or indirect, is through shares, stock, or any other manner, or includes voting rights;

(D) is a member of the board of directors or other governing body of a business; or

(E) serves as an elected officer of a business.

(2) Strike SECTION 2.42 of the bill and substitute the following:

SECTION 2.42. Section 7, Vehicle Storage Facility Act (Article 6687-9a, Revised Statutes), is amended to read as follows:

Sec. 7. APPROVAL. The commissioner ~~[department]~~ shall approve an application that is submitted as provided by Section 6 of this article for a license to operate a vehicle storage facility unless the commissioner ~~[department]~~ determines that:

(1) the applicant knowingly supplied false or incomplete information on the application;

(2) the applicant, one of the applicant's partners, a principal or the general manager of the applicant, or one of the applicant's officers has been convicted of a felony, or a misdemeanor for which the maximum punishment is by confinement in jail or by a fine exceeding \$500, in the three years preceding the date of the application; or

(3) the vehicle storage facility for which the license is sought does not meet the standards for storage facilities established by the rules of the commissioner [department].

(3) Strike SECTION 2.44 of the bill and substitute the following:

SECTION 2.44. Section 9, Vehicle Storage Facility Act (Article 6687-9a, Revised Statutes), is amended to read as follows:

Sec. 9. TERM OF LICENSE. (a) A license issued under this article is valid for the period set by the commission [expires on December 31, of the year in which it is issued].

(b) A person may apply to the commission [department] to renew the license on an application form approved by the commission [department]. An application for renewal of a license must be accompanied by a nonrefundable fee [of \$100].

(c) If an application for renewal of a license is not submitted before the date of [31st day after the] expiration [date] of the license, the license may not be renewed.

(d) A person whose license expires and is not renewed under this section may apply for a new license under Section 6 of this article.

(4) Strike SECTION 2.45 of the bill and substitute the following:

SECTION 2.45. Section 10, Vehicle Storage Facility Act (Article 6687-9a, Revised Statutes), is amended to read as follows:

Sec. 10. SANCTIONS [REVOCAATION]. (a) The commissioner shall adopt rules relating to the administrative sanctions that may be enforced against a licensee. If a licensee, a partner of a licensee, a principal in the licensee's business, or an employee of the licensee violates, with the knowledge of the licensee, this article or a rule or order adopted under this article, the commissioner may:

(1) issue a written warning to the licensee specifying the violation;
 (2) deny, revoke, or suspend an application under this article;
 (3) place on probation a person whose license has been suspended; or
 (4) assess an administrative penalty in an amount not to exceed \$1,000 for each violation, with each violation considered a separate offense [department may revoke a license or deny an application to renew a license issued under this article if the department determines that:

[(1) the licensee, one of the licensee's partners, or one of the licensee's officers has been convicted of a felony, or a misdemeanor for which the maximum punishment is by confinement in jail or by a fine exceeding \$500, which directly relates to a duty or responsibility of an operator of a vehicle storage facility;

[(2) the vehicle storage facility for which the license was issued does not meet a standard for a vehicle storage facility set by rule of the department; or

[(3) the licensee knowingly violated a rule of the department, or an employee of the licensee, with the licensee's knowledge, violated a rule of the department].

(b) The commissioner may revoke or suspend a license issued under this article or place on probation a person whose license has been suspended if the commissioner determines that a licensee, a partner of the licensee, a principal in the licensee's business, or an employee of the licensee has been finally convicted of:

(1) a felony; or

(2) a misdemeanor that:

(A) is punishable by confinement or by a fine that exceeds \$500; and

(B) directly relates to a duty or responsibility of an operator of a vehicle storage facility ~~[The department shall send notice of the revocation or denial to the licensee by certified mail, return receipt requested, before the eighth day after the date of the decision].~~

(c) If it appears that a person is in violation of or is threatening to violate this article or a rule or order adopted under this article, the commissioner or the attorney general at the commissioner's request may institute an action for injunctive relief, to recover a civil penalty not to exceed \$1,000 for each violation, or for both injunctive relief and the civil penalty. If the commissioner or the attorney general prevails in an action under this subsection, the commissioner or the attorney general is entitled to recover reasonable attorney's fees and court costs.

(d) A peace officer or license and weight inspector for the Department of Public Safety may make an arrest for a violation of a rule adopted under this article.

(5) Add the following sections to the bill, numbered appropriately:

SECTION ____ Section 13, Vehicle Storage Facility Act (Article 6687-9a, Revised Statutes), is amended to read as follows:

Sec. 13. NOTIFICATION OF OWNER ~~[LOCAL OPTION]~~. (a) The operator of a vehicle storage facility who receives a vehicle that has been towed to the facility for storage shall, not later than the seventh day after the date the operator receives the vehicle, send a written notice to the registered owner and the primary lienholder of the vehicle. This subsection does not apply to notice for a vehicle that is removed by the owner before the seventh day after the date the operator receives the vehicle.

(b) The notice must be sent by certified mail, return receipt requested, and must contain:

- (1) the date the vehicle was accepted for storage;
- (2) the first day for which a storage fee is assessed;
- (3) the daily storage rate;
- (4) the type and amount of all other charges to be paid when the vehicle is claimed;
- (5) the full name, street address, and telephone number of the facility;
- (6) the hours during which the owner may claim the vehicle; and
- (7) the facility license number preceded by "Texas Department of Licensing and Regulation Storage Facility License Number."

(c) A notice is considered to be timely filed if the postmark shows that it was mailed within the seven-day period provided by Subsection (a) of this section. ~~[The governing body of a city by ordinance may provide that this article and rules adopted under this article do not apply inside the limits of the city.]~~

~~[(b) On adopting an ordinance under this section, the governing body shall deliver a copy of the ordinance to the department.]~~

~~[(c) An ordinance adopted under this section takes effect on the first day of the month following the month in which the ordinance is adopted.]~~

~~[(d) If the governing body of a city repeals an ordinance adopted under this section, the governing body shall notify the department of its act as soon as practicable after the repeal.]~~

SECTION ____ Section 14, Vehicle Storage Facility Act (Article 6687-9a, Revised Statutes), is amended to read as follows:

Sec. 14. FEES; CHARGES ~~[ENFORCEMENT]~~. (a) The operator of a vehicle storage facility may not charge an owner more than \$25 for notification under Section 13 of this article.

(b) The operator of a vehicle storage facility may not charge an owner more than \$10 for preservation of a stored motor vehicle.

(c) The operator of a vehicle storage facility may not charge less than \$5 or more than \$15 for each day or part of a day for storage of a vehicle.

(d) The operator of a vehicle storage facility may not charge any additional fees that are similar to notification, preservation, or administrative fees.

(e) This section controls over any conflicting municipal ordinance or charter provision [A peace officer or license and weight inspector of the Department of Public Safety may make an arrest for a violation of a rule adopted under this article].

SECTION ____ Section 5.05(b), Texas Litter Abatement Act (Article 4477-9a, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) If a garagekeeper or storage facility acquires possession of a motor vehicle for a purpose other than repair, the garagekeeper or storage facility is entitled to towing, preservation, and notification charges and to reasonable storage fees, in addition to storage fees earned pursuant to contract, for a maximum of 7 [10] days only until notification is mailed to the last known registered owner and all lien holders of record as provided by Subsection (a) of this section. After such notice is mailed, storage fees may continue until the vehicle is removed and all accrued charges are paid. A garagekeeper who fails to report the possession of an abandoned vehicle to the police department within 7 [10] days after it becomes abandoned may no longer claim reimbursement for storage of the vehicle.

SECTION ____ VEHICLE STORAGE. (a) The provisions of this Act relating to penalties under the Vehicle Storage Facility Act (Article 6687-9a, Revised Statutes), apply only to an act or an offense under the Vehicle Storage Facility Act (Article 6687-9a, Revised Statutes), committed on or after the effective date of this Act. An offense under the Vehicle Storage Facility Act (Article 6687-9a, Revised Statutes), committed before the effective date of this Act is covered by the law in effect on the date that the offense was committed, and that law is continued in effect for that purpose. For purposes of this subsection, an offense is committed before the effective date of this Act if any element of the offense occurs before the effective date.

(b) The provisions of this Act relating to notice given under Section 13, Vehicle Storage Facility Act (Article 6687-9a, Revised Statutes), apply to notice for vehicles initially parked or stored at a vehicle storage facility on or after the effective date of this Act.

(c) The provisions of this Act relating to notification, preservation, and storage fees under Section 5.05(b), Texas Litter Abatement Act (Article 4477-9a, Vernon's Texas Civil Statutes), or Section 14, Vehicle Storage Facility Act (Article 6687-9a, Revised Statutes), apply to fees charged for notification or storage on or after the effective date of this Act.

The amendment was read and was adopted viva voce vote.

Senator Green offered the following amendment to the bill:

Floor Amendment No. 4

Amend C.S.H.B. 863 (Committee Printing, page 40, line 48, through page 52, line 28) as follows:

Delete Section 2.72 in its entirety.

The amendment was read.

Senator Parker moved to table the amendment.

The motion was lost by the following vote: Yeas 10, Nays 19.

Yeas: Armbrister, Brooks, Haley, Harris, Parker, Santiesteban, Sims, Uribe, Whitmire, Zaffirini.

Nays: Barrientos, Bivins, Brown, Caperton, Carriker, Dickson, Edwards, Glasgow, Green, Johnson, Krier, Leedom, McFarland, Montford, Parmer, Ratliff, Tejeda, Truan, Washington.

Absent: Henderson, Lyon.

Question on the adoption of the amendment, the amendment was adopted viva voce vote.

Senator Washington offered the following amendment to the bill:

Floor Amendment No. 5

Amend C.S.H.B. 863 by adding a new Article 6 and renumbering the subsequent Articles:

SECTION 1. Definitions relating to this Article:

(1) "Advisory committee" means the Private Process Servers' Advisory Committee.

(2) "Person" means an individual, corporation, or association.

(3) "Department" means the Texas Department of Licensing and Regulation.

SECTION 2. POWERS OF THE DEPARTMENT. (a) With the advice of the advisory committee, the Department shall adopt educational requirements and standards for persons engaged in the private service of process under this Act and shall adopt rules as necessary to implement this Act.

(b) The Department shall establish procedures for reporting and processing complaints related to the regulation of private process servers in this state.

SECTION 3. ADVISORY COMMITTEE. (a) The Private Process Servers' Advisory Committee is composed of six members appointed by the governor with the advice and consent of the senate. Two members must be attorneys licensed to practice law in this state. Two members must be judges of district courts of this state. Two members must be persons engaged in the private service of process in this state who are eligible to be licensed under this Act.

(b) Members serve for staggered six-year terms, with the terms of two members expiring February 1 of each odd-numbered year. A member is not entitled to compensation for serving on the advisory committee, but is entitled to reimbursement for actual and necessary expenses incurred in performing functions as a member of the advisory committee, subject to any limit established in the General Appropriations Act.

(c) The Department shall oversee the operations of the advisory committee. The advisory committee shall propose rules to the Department for continuing education requirements and other standards relating to the private service of process.

(d) The advisory committee shall elect one of its members to serve as chairman. The advisory committee shall meet at the call of its chairman or at the call of the Department.

(e) In the event of a vacancy during a term, the governor shall appoint a replacement to fill the unexpired part of the term. The replacement must meet the eligibility requirements applicable to the person being replaced. If a district judge member ceases to serve as a district judge, that position becomes vacant.

SECTION 4. POWERS OF PRIVATE PROCESS SERVERS. (a) A person licensed under this Act as a process server may serve civil process issued by the courts of this state located in a county with a population of 30,000 or more according to the most recent federal decennial census in the manner provided by law for service by sheriffs and constables. Any person serving civil process, other

than a sheriff or constable, must be licensed under this Act. A person licensed under this Act may serve citation anywhere in the State of Texas.

(b) A licensee under this Act may serve a writ of garnishment but may not serve a writ of attachment, sequestration, or execution or other process providing for the seizure and detention of property.

(c) Any function of a process server licensed under this Act may be performed by the licensee's agent on compliance with the agent registration requirements of this Act.

(d) A licensee under this Act is not an officer of the court.

SECTION 5. LICENSE APPLICATION. (a) To be licensed under this Act, a person must:

- (1) be at least 21 years of age;
- (2) be a United States citizen and have had permanent residence in this state for at least one year;
- (3) submit to the Department, on a form prescribed by the Department, a sworn application showing compliance with the educational requirements and standards imposed under this Act;
- (4) not have been convicted of:
 - (A) a misdemeanor involving moral turpitude; or
 - (B) a felony;
- (5) submit to the Department, on a form prescribed by the Department, a sworn application accompanied by proof of security having been deposited with the Department as required by this Act, a \$500 license fee, and a \$25 nonrefundable application fee; and

(6) submit to the Department, on a form prescribed by the Department, a sworn statement that the applicant will perform all duties as a process server in compliance with the laws governing service of process in this state.

(b) If the applicant is a corporation, the requirement prescribed by Subdivision (4) of Subsection (a) of this section must be satisfied by each officer or director of the corporation and the requirement prescribed by Subsection (a) of this section must be satisfied by at least one corporate officer. The corporation's application must be accompanied by a certified copy of the certificate of incorporation and a certificate of good standing indicating compliance with the corporation laws of this state.

(c) If the applicant is an association, the requirement prescribed by Subdivision (4) of Subsection (a) of this section must be satisfied by each owner or associate, and the requirement prescribed by Subsection (a) of this section must be satisfied by at least one owner or associate. The association's application must be accompanied by a statement indicating the name of each owner and officer and a copy of any association agreement or other operating agreement including a partnership agreement.

(d) Each application must include a statement indicating compliance with Subsection (a) of this section.

SECTION 6. SECURITY DEPOSIT. (a) An applicant for a license must deposit security with the Department in one of the following forms:

- (1) \$10,000 in cash;
- (2) \$10,000 in securities approved by the Department; or
- (3) a \$10,000 bond payable to this state executed by a corporation authorized to do business in this state.

(b) The aggregate liability of a surety on the bond under Subdivision (3) of Subsection (a) of this section may not exceed \$10,000.

(c) The security deposit shall be conditioned on the lawful performance of the functions of a process server and payment of any fines or penalties levied against the licensee for failure to comply with this Act.

(d) The security deposit shall be retained during the period beginning on the date the deposit is received and ending two years after the date of termination of the license. After the two-year period has elapsed, the Department shall refund the security deposit on demonstration to the satisfaction of the Department that an action is not pending against the former licensee for fines or penalties in connection with the performance of the licensee's functions as a process server.

(e) An action against a licensee for fines, penalties, or civil damages may not be commenced later than two years after the date of the act, event, or transaction on which the action is based.

SECTION 7. ISSUANCE OF LICENSE. (a) Not later than the 30th day after the date the application is received, the Department shall issue a process server license to an applicant who complies with Section 5 of this Act.

(b) The applicant is entitled to a full refund of the security deposit and the license fee if the Department fails to issue the license during the period prescribed by Subsection (a) of this section.

SECTION 8. AGENT REGISTRATION. (a) A licensee must register with the Department each agent appointed by the licensee to perform any of the licensee's functions as a process server.

(b) The licensee must register an agent not later than the 30th day after the date of appointment. The registration must be on a form prescribed by the Department and accompanied by a \$100 registration fee and a \$25 nonrefundable application fee.

(c) If the appointment of a registered agent is terminated, the licensee shall notify the Department of that fact not later than the 30th day after the date of termination.

SECTION 9. TERM OF LICENSE AND REGISTRATION; RENEWAL.

(a) A license issued under this Act and an agent's registration under this Act expire one year from the date of issuance.

(b) The Department shall send a renewal application to a licensee or registered agent at least 30 days before the expiration of the license.

(c) A licensee may renew the license and an agent's registration by submitting to the Department before the expiration date of the license, on a form prescribed by the Department, a renewal application accompanied by a renewal fee in an amount to be determined by the Department. The Department shall periodically set renewal fees in an amount sufficient to cover the expenses of administering this Act less the amount of other revenues provided for in this Act.

SECTION 10. RECORDS. (a) A licensee shall maintain at the licensee's principal place of business records of the licensee's activities as a process server. All records regarding the receiving and serving of civil process shall be kept in the same manner prescribed under the Texas Rules of Civil Procedure for constables and sheriffs.

(b) All returns of service shall be accompanied by the license identification number.

(c) The Department may examine a licensee's records during normal business hours to determine whether the licensee is in compliance with this Act.

(d) On termination of a license, the licensee shall deliver to the Department, if requested, any records relating to the service of civil process. Any unserved process in the licensee's custody or control shall be returned to the party who initiated the service of process.

SECTION 11. REVOCATION OR SUSPENSION OF LICENSE OR REGISTRATION. (a) The Department shall suspend or revoke a process server license or an agent registration, as appropriate, if the Department determines that:

(1) the licensee or agent has violated this Act;

(2) the licensee has failed to maintain the security required by this Act;
(3) the licensee has failed to maintain the records required by this Act;
(4) the licensee has refused to permit an examination by the Department of the records required to be maintained by this Act;
(5) the licensee or agent has knowingly made a false or fraudulent return of service;
(6) any owner, officer, or registered agent of the licensee has been convicted of a misdemeanor involving moral turpitude or a felony; or
(7) the licensee has refused to comply with the rules adopted by the Department under Subsection (a) of Section 2 of this Act.

(b) Proceedings before the Department for the revocation or suspension of a license or registration and appeals from those proceedings are governed by the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

SECTION 12. FEES. (a) Fees received by the Department under this Act shall be deposited in the state treasury to the credit of the General Revenue Fund.

(b) Fees charged and collected by a licensee for service of process may be charged as costs in a judicial proceeding.

SECTION 13. APPLICATION OF ACT. (a) This Act does not limit or restrict the service of process in the state as provided for by a court order or for any person serving subpoenas who is working directly under the supervision of a licensed attorney.

(b) A licensed process server or a registered agent is not a peace officer by virtue of this Act.

SECTION 14. PENALTIES. (a) A person commits an offense if the person knowingly or intentionally violates this Act.

(b) A person commits an offense if the person knowingly or intentionally falsifies a return of civil process.

(c) An offense under Subsection (a) of this section is a Class A misdemeanor. An offense under Subsection (b) of this section is a felony of the third degree.

SECTION 15. INITIAL APPOINTMENTS. In making the initial appointments to the advisory committee, the governor shall designate one district court judge and one person engaged in the private service of process for terms expiring February 1, 1991, one district court judge and one attorney for terms expiring February 1, 1993, and one attorney and one person engaged in the private service of process for terms expiring February 1, 1995.

SECTION 16. EFFECTIVE DATE; TRANSITION. (a) Except as provided by Subsection (b) of this section, this Article takes effect September 1, 1989.

(b) The educational requirements for licensure under this Act take effect September 1, 1990. To be eligible for the issuance of a license under this Act between September 1, 1989, and August 31, 1990, an applicant must present evidence satisfactory to the Department of at least two years' experience in serving civil process. To renew a license issued under this subsection, the applicant for renewal must comply with the educational requirements at the time of renewal. This subsection expires September 1, 1991.

SECTION 17. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read and was adopted by the following vote: Yeas 15, Nays 15.

The President announced he would vote "Aye" on the adoption of the amendment.

Yeas: Bivins, Brooks, Brown, Carriker, Dickson, Glasgow, Haley, Harris, Krier, Leedom, Parmer, Sims, Tejada, Uribe, Washington.

Nays: Armbrister, Barrientos, Caperton, Edwards, Green, Johnson, Lyon, McFarland, Montford, Parker, Ratliff, Santiesteban, Truan, Whitmire, Zaffirini.

Absent: Henderson.

On motion of Senator Parker and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading viva voce vote.

RECORD OF VOTE

Senator Henderson asked to be recorded as voting "Nay" on the passage of the bill to third reading.

COMMITTEE SUBSTITUTE HOUSE BILL 863 ON THIRD READING

Senator Parker moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that C.S.H.B. 863 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 2.

Yeas: Armbrister, Barrientos, Bivins, Brooks, Brown, Caperton, Carriker, Dickson, Edwards, Glasgow, Green, Haley, Johnson, Krier, Leedom, Lyon, Montford, Parker, Parmer, Ratliff, Santiesteban, Sims, Tejada, Truan, Uribe, Whitmire, Zaffirini.

Nays: Henderson, Washington.

Absent: Harris, McFarland.

The bill was read third time and was passed viva voce vote.

RECORD OF VOTE

Senator Henderson asked to be recorded as voting "Nay" on the final passage of the bill.

BILLS AND RESOLUTIONS SIGNED

The President announced the signing in the presence of the Senate, after the captions had been read, the following enrolled bills and resolutions:

S.C.R. 2	S.B. 1237
S.C.R. 49	S.B. 1280
S.B. 60	S.B. 1363
S.B. 125	S.B. 1480
S.B. 133	S.B. 1509
S.B. 297	S.B. 1511
S.B. 442	S.B. 1544
S.B. 545	S.B. 1651
S.B. 806	S.B. 1727
S.B. 985	S.B. 1742
S.B. 1033	S.B. 1779
S.B. 1163	

SENATE RULE 7.22(b) SUSPENDED

On motion of Senator Glasgow and by unanimous consent, Senate Rule 7.22(b) was suspended as it relates to the House amendment to S.B. 307.

SENATE BILL 307 WITH HOUSE AMENDMENT

Senator Glasgow called S.B. 307 from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Floor Amendment - P. Hill

Amend Section 9, S.B. 307, as follows by adding:

(d) Sections 1.91, 1.92, 1.93, 1.94, and 1.95, Family Code, are repealed effective January 1, 1990. This repealer applies only to a transaction occurring on or after January 1, 1990.

The amendment was read.

Senator Glasgow moved that the Senate do not concur in the House amendment, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on S.B. 307 before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Glasgow, Chairman; Krier, Caperton, Parker and Bivins.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2473 ON SECOND READING**

On motion of Senator Brooks and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 2473, Relating to the composition and functions of the Texas Health and Human Services Coordinating Council; creating the Human Services Interagency Committee; and providing for the exchange of health and human services data and the establishment of registries.

The bill was read second time.

Senator Parmer offered the following amendment to the bill:

Floor Amendment No. 1

Amend C.S.H.B. 2473 by deleting the language below the enacting clause and inserting in its place the following:

SECTION 1. Section 131.001(b), Human Resources Code, is amended and Subsection (h) is added to read as follows:

(b) The council consists of:

- (1) the governor;
- (2) the lieutenant governor;
- (3) the speaker of the house of representatives;

(4) the chairman of the Texas Board of Human Services;
 (5) the chairman of the Texas Board of Health;
 (6) the chairman of the Texas Board of Mental Health and Mental Retardation;

(7) the chairman of the Texas Board on Aging;
 (8) the chairman of the Texas Commission on Alcohol and Drug Abuse;

(9) the chairman of the Texas Commission for the Blind;
 (10) the chairman of the Texas Commission for the Deaf;
 (11) the chairman of the Texas Rehabilitation Commission [the chairman of the State Board of Education;

(8) two additional board chairman of state agencies delivering health and human services, to be appointed by the governor];

(12) [(9)] two senators appointed by the lieutenant governor;
 (13) [(10)] two members of the house of representatives appointed by the speaker of the house;

(14) [(11)] two members of the general public appointed by the governor;

(15) [(12)] two members of the general public appointed by the lieutenant governor; and

(16) [(13)] two members of the general public appointed by the speaker of the house.

(h) The Interagency Council for Services for the Homeless is established as a subcommittee to the council and consists of:

(1) one representative from each of the following agencies, appointed by the executive director or commissioner of each respective agency:

- (A) the Texas Department of Health;
- (B) the Texas Department of Human Services;
- (C) the Texas Housing Agency;
- (D) the Texas Department of Mental Health and

Mental Retardation;

- (E) the Texas Department of Community Affairs;
- (F) the Texas Department on Aging;
- (G) the Texas Rehabilitation Commission;
- (H) the Central Education Agency; and
- (I) the Texas Commission on Alcohol and Drug Abuse;

(2) one representative of the Texas Health and Human Services Coordinating Council, appointed by the governor; and

(3) three members representing service providers to the homeless, one each appointed by the governor, the lieutenant governor, and the speaker of the house. A member serves at the pleasure of the appointing official or until termination of the member's employment with the entity the member represents. The members of the council shall annually elect one member to serve as chairperson. The council shall meet at least quarterly. Any actions taken by the council must be approved by a majority vote of the members present.

SECTION 2. (a) The Interagency Council for Services for the Homeless is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the council is abolished and this Act expires September 1, 2001.

(b)(1) The council may select and use lay and professional advisors as necessary.

(2) The Texas Department of Community Affairs shall provide clerical and advisory support staff to the council.

(c) The council shall:

- (1) survey current resources for services for the homeless in the state;
- (2) initiate an evaluation of the current and future needs for the services;
- (3) assist in coordinating and providing statewide services for all homeless persons in the state;
- (4) increase the flow of information among separate providers and appropriation authorities; and
- (5) develop guidelines to monitor the provision of services for the homeless and the methods of service delivery.

(d) The council shall annually submit a progress report to the governing bodies of the agencies represented on the council.

(e)(1) Not later than February 1, 1991, the council shall submit a report to the 72nd Legislature recommending improvements to the present system of providing services for the homeless. The report must also detail any actions taken by the council to improve the provision of services for the homeless. The report may include recommendations to improve the operation of the council.

(2) This subsection expires September 1, 1991.

(f) The Texas Department of Community Affairs shall establish a transitional housing pilot program in four areas of the state if funds are made available. The program shall address the needs of homeless persons for:

- (1) interim housing;
- (2) health services;
- (3) literacy training;
- (4) job training;
- (5) family counseling;
- (6) credit counseling; and
- (7) other services that will stop and prevent

homelessness.

SECTION 3. Section 131.004(a), Human Resources Code, is amended to read as follows:

(a) The council may:

(1) establish and maintain a client omnibus registry and exchange and other comprehensive data bases which facilitate the exchange of data among health and human services agencies and which cover[ing] public and private sector health and human services, programs, and clients. The data bases must assure[that] that:

(A) health and mental health communications and records privileged under Chapter 239, Acts of the 66th Legislature, Regular Session, 1979 (Article 5561h, Vernon's Texas Civil Statutes), the Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), and the Texas Rules of Evidence remain confidential and privileged;

(B) personally identifiable health and mental health communications and records of persons involved in the receipt or delivery of health or human services are confidential and privileged; and

(C) a private source is not required to provide confidential health and mental health communications or records unless a law specifically requires disclosure;

(2) conduct and contract for studies of significant health and human services that may include needs assessments, monitoring and tracking services among agencies, cost analyses, forecasting, consideration of current problems of target populations, long-term results of services, and issues of multilevel or multiagency service delivery;

(3) serve as the primary state resource in coordinating and planning for health and human services;

(4) analyze federal, state, county, municipal, agency, and public/private sector relationships to coordinate efforts to plan and deliver health and human services;

(5) provide a central information and referral source concerning health and human services, programs, and clients;

(6) review existing and proposed actions and policies of federal agencies to determine the health and human services impact on Texas and recommend to the governor and the legislature alternative actions and policies consistent with state health and human services policy;

(7) provide advice to agencies, organizations, and governmental entities concerning the analysis of needs and the development, evaluation, and coordination of health and human services;

(8) conduct regular and comprehensive reviews and analyses of health and human services policy and make such recommendations as deemed necessary to the governor and to the legislature; and

(9) before December 1 of each even-numbered year, file a report with the governor and the legislature concerning the activities of the council.

SECTION 4. Subchapter B, Chapter 11, Tax Code, is amended by adding Section 11.111 to read as follows:

Sec. 11.111. PUBLIC PROPERTY USED TO PROVIDE TRANSITIONAL HOUSING FOR INDIGENT PERSONS. (a) Residential property owned by the United States or an agency of the United States and used to provide transitional housing for the indigent under a program operated or directed by the United States Department of Housing and Urban Development is exempt from taxation.

(b) For purposes of this section, transitional housing for indigent individuals is housing provided at no cost or nominal cost to an indigent individual or family during a temporary period in which the individual or a member of the family participates in a job training program, job placement program, or other program intended to assist the individual or family to become self-sufficient.

(c) The exemption provided by this section applies even if the United States or its agency leases the property to a nonprofit organization in return for the organization's assistance in operating the program to provide transitional housing, as long as the lease does not require the nonprofit organization to pay more than a nominal amount to lease the property.

SECTION 5. Chapter 131, Human Resources Code, is amended by adding Section 131.0042 to read as follows:

Sec. 131.0042. HUMAN SERVICES INTERAGENCY COMMITTEE. (a) The Human Services Interagency Committee is established.

(b) The committee is composed of:

(1) the commissioner of health;

(2) the commissioner of human services;

(3) the commissioner of the Texas Rehabilitation Commission;

(4) the executive director of the Texas Commission on Alcohol and

Drug Abuse;

(5) the executive director of the Texas Commission for the Blind;

(6) the executive director of the Texas Commission for the Deaf;

(7) the commissioner of mental health and mental retardation;

(8) the commissioner of education;

(9) the executive director of the Texas Youth Commission;

(10) the executive director of the Texas Juvenile Probation

Commission;

(11) the agency administrator of the Texas Employment Commission;

and

(12) the director of the child support enforcement division of the office of the attorney general.

(c) The committee shall advise the council on health and human services policy and implementation issues.

(d) The committee shall meet at least quarterly.

SECTION 6. This Act takes effect September 1, 1989.

SECTION 7. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

Senator Uribe offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 2

Amend Floor Amendment No. 1 to C.S.H.B. 2473 by adding Sections 6, 7, 8, and 9 to read as follows and by renumbering the remaining sections accordingly:

“SECTION 6. Article 4414b, Title 71, Revised Statutes, is amended by adding Section 2.01 to read as follows:

Sec. 2.01. (a) The department is authorized to establish a registry or system of registries for providers of health-related services who are not otherwise licensed, registered, or certified by any state agency, board or commission.

(b) The board may by rule adopt reasonable registration fees to cover the costs of establishing and maintaining a registry and may adopt other rules as necessary to administer this section.

(c) A person seeking to register with the department must submit a request for registration on a form prescribed by the department.

(d) The board may appoint advisory committees, if needed, to assist the board and department in implementing a registry or system of registries established under this section.

SECTION 7. MEDICATION PROGRAM. (a) The Texas HIV medication program is established in the department.

(b) The program shall assist hospital districts, local health departments, public or nonprofit hospitals and clinics, nonprofit community organizations, and HIV-infected individuals in the purchase of medications approved by the board that have been shown to be effective in reducing hospitalizations due to HIV-related conditions and in improving the quality and longevity of the life of a person with HIV infection.

(c) ELIGIBILITY. To be eligible for the program, an individual:

(1) must not be eligible for Medicaid benefits;

(2) must meet financial eligibility criteria set by board rule;

(3) must not qualify for any other state or federal program available for financing the purchase of the prescribed medication; and

(4) must be diagnosed by a licensed physician as having AIDS or an HIV-related condition or illness of at least the minimal severity set by the board.

(d) PROCEDURES AND ELIGIBILITY GUIDELINES. The board by rule shall establish:

(1) application and distribution procedures;

(2) eligibility guidelines to ensure the most appropriate distribution of funds available each year; and

(3) appellate procedures to resolve any eligibility or funding conflicts.

(e) FUNDING. (1) The department may accept and use local, state and federal funds and private donations to fund the program.

(2) State, local, and private funds may be used to qualify for federal matching funds, if federal funding is available.

(3) Hospital districts, local health departments, public or nonprofit hospitals and clinics, and nonprofit community organizations may participate in the program by sending funds to the department for the purpose of assisting their clients in the purchase of HIV medications. A hospital district may send funds from any source, including taxes levied by the district.

(4) The department shall deposit money received under this section in the state treasury to the credit of the HIV medication fund and to the credit of a special account in that fund that shall be established for each entity sending funds under this section.

(5) Funds received from a hospital district, local health department, public or nonprofit hospital or clinic, or nonprofit community organization may be used only to provide assistance to their clients or patients. The funds may be supplemented with other funds available for the purpose of the program.

(6) The department may institute a sliding fee scale to help eligible HIV-infected individuals purchase medications under this program.

(f) ADVISORY COMMITTEE. The board may appoint an advisory committee to assist in the development of procedures and guidelines required by this article.

(g) In this section:

(1) "Department" means the Texas Department of Health.

(2) "Board" means the Texas Board of Health, and

(3) "HIV" means human immunodeficiency virus.

SECTION 8. Subchapters A and D, Texas Health Planning and Development Act (Article 4418h, Vernon's Texas Civil Statutes), are amended to read as follows:

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1.01. SHORT TITLE. This Act may be cited as the Texas Health Planning and Development Act.

Sec. 1.02. POLICY AND PURPOSE. The policy of this state and the purpose of this Act are to insure that health-care services and facilities are made available to all citizens in an orderly and economical manner and to meet the requirements of, and to implement, the National Health Planning and Resources Development Act of 1974 (P.L. 93-641), as amended by the Health Planning and Resources Development Amendments of 1979 (P.L. 96-79), the federal rules and regulations promulgated under that Act, and other pertinent federal authority. To achieve this public policy and purpose, it is essential that appropriate health planning activities be undertaken and implemented and that health-care services and facilities be provided in a manner that is cost effective and that is compatible with the health-care needs of all [the various] areas and populations of the state.

Sec. 1.03. DEFINITIONS. In this Act:

(1) "Capital expenditure" means an expenditure made by or on behalf of a health-care facility which, under generally accepted accounting principles, is not properly chargeable as an expense of operation or maintenance.

(2) "Council" means the Texas Health Policy Council.

(3) ["Applicant" means any person who makes application to the commission pursuant to this Act.

[(2) "Application" means a written request for consideration by the commission pursuant to this Act.

[(3) "Certificate holder" is the person named in the certificate of need and any person owning title or interest in the person named in the certificate of need.

~~[(4) "Certificate of need" means a written order of the commission setting forth the commission's affirmative finding that a proposed project sufficiently satisfies the criteria prescribed for such projects by this Act and by rule of the commission.~~

~~[(5) "Commission" means the Texas Health Facilities Commission.~~

~~[(6)] "Department" means the Texas Department of Health.~~

~~(4) "Expenditure minimum" means a capital expenditure of more than \$150,000 or any other unadjusted minimum as defined by federal law.~~

~~(5) [(7) "Development" means those activities, other than planning or predevelopment activities, as determined by rule of the commission, which on their completion result in the consummation of a project or a significant financial commitment toward the consummation of a project, and includes the adoption of ordinances, orders, or resolutions authorizing the issuance of bonds.~~

~~[(8)] "Federal law" includes the National Health Planning and Resources Development Act of 1974 (P.L. 93-641), as amended by the Health Planning and Resources Development Amendments of 1979 (P.L. 96-79), and Public Laws 79-725, 88-164, 89-749, [91-515;] and 92-603, the federal rules and regulations promulgated under those Acts, and other pertinent federal authority.~~

~~(6) [(9)] "Health-care facility," referred to as "facility," means[; regardless of ownership,] a public or private hospital, skilled nursing facility, intermediate care facility, ambulatory surgical facility, family planning clinic which performs ambulatory surgical procedures, rural health initiative clinic, urban health initiative clinic, kidney disease treatment facility, inpatient rehabilitation facility, and other facilities as defined by federal law, but does not include the office of physicians or practitioners of the healing arts singly or in groups in the conduct of their profession.~~

~~(7) [(10)] "Health maintenance organization," referred to as "HMO," has the meaning given the term in the Texas Health Maintenance Organization Act.~~

~~(8) [(11) "Health systems agency" means a nonprofit private corporation or public regional planning body acting as an instrumentality of the federal government and designated in accordance with federal law and subject to approval of the governor and his periodic review and redesignation.~~

~~[(12)] "Institutional health-care services," referred to as "services," means the health-care services provided in health-care facilities and includes, but is not limited to, inpatient or outpatient services for observation, diagnosis, treatment, or rehabilitation, and all care for patients with obstetrical, medical, surgical, tubercular, mental, alcoholic, drug abuse, chronic, rehabilitative, or other conditions.~~

~~[(13) "Party" means any person who by formal intervention or action as determined by rule of the commission participates in the consideration of a specific application by the commission.~~

~~[(14) "Person" means an individual, sole proprietorship, charity, trust, estate, institution, group, association, firm, joint venture, partnership, joint stock company, cooperative, corporation, the state or a political subdivision or instrumentality of the state, any receiver, trustee, assignee, or other similar representative or any other legal entity.~~

~~[(15) "Project" means services, facility, or HMO requiring a certificate of need or other action under this Act.~~

~~[(16) "Statewide Health Coordinating Council" means a twenty-one person council, in accordance with federal law, appointed by the governor, to provide rules and regulations governing the development and implementation of the state health plan.~~

~~[(17) "Capital expenditure" means an expenditure made by or on behalf of a health care facility which, under generally accepted accounting principles, is not properly chargeable as an expense of operation or maintenance.~~

~~[(18) "Expenditure minimum" means a capital expenditure that exceeds \$150,000 or any other unadjusted minimum as may be defined by federal law.]~~

Sec. 1.04. ADMINISTRATIVE PROCEDURE. The Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes) applies to all proceedings under this Act except to the extent inconsistent with this Act.

Sec. 1.05. AUTHORITY OF THE GOVERNOR. (a) As the chief executive and planning officer of this state, the governor is authorized to perform those duties and functions assigned to him by federal law. The governor is authorized to transfer personnel, equipment, records, obligations, appropriations, functions, and duties of his office to another agency.

(b) The governor by executive order may establish a capital expenditure review program in compliance with federal law if the governor finds that such a review program is necessary to prevent the loss of federal funds. The governor's findings, including a brief description of the reason for the findings, must be included in the text of an order issued under this subsection. If necessary, the governor may use any available funds to implement this subsection.

(c) An executive order issued under Subsection (b) of this section expires on the September 1 that follows the next regular session of the legislature that begins after the date the order is issued, unless an earlier date is specified in the order, or unless the governor rescinds the order before that time.

(d) The program established by an executive order issued under Subsection (b) of this section, when authorized by the governor, may negotiate an agreement with the Secretary of Health and Human Services on behalf of the State of Texas to administer a state capital expenditure review program pursuant to Section 1122 of the Social Security Act, the federal rules and regulations promulgated under that Act, and other pertinent federal authority, if after thorough review and study, the governor determines that such a review program would be necessary to prevent the loss of federal funds.

Sec. 1.06. INTERAGENCY CONTRACTS. Agencies, departments, instrumentalities, grantees, political subdivisions, and institutions of higher education of the state shall cooperate with the ~~[commission and the]~~ department in the performance of their assigned duties and functions.

Sec. 1.07. LIMITATIONS ON POWERS. Nothing in this Act shall be construed to authorize the ~~[commission or the]~~ department or any employee or official of the ~~[commission or the]~~ department to:

(1) exercise any supervision or control over the practice of medicine or the manner in which physician's services in private practice are provided, or over the selection, tenure, compensation, or fees of any physician in the delivery of physician's services;

(2) Perform any duty or function under the provisions of Title XI of the Social Security Act (Section 249(f) of P.L. 92-603) or rules or regulations promulgated thereunder; or

(3) apply for grants under the provisions of Section 1526, P.L. 93-641, as amended by P.L. 96-79.

Sec. 1.08. HEALTH-RELATED STATE AGENCIES: REGIONAL ADMINISTRATION. The Texas Department of Health, the Texas Department of Mental Health and Mental Retardation, the Texas Department of Human Services ~~[Resources]~~, and as directed by the governor, other health-related state agencies shall divide the state into regions for administrative or regulatory purposes

that coincide with one or more state planning regions delineated by the governor under Chapter 391, Local Government Code [the health service areas established pursuant to P.L. 93-641, as amended by P.L. 96-79].

SUBCHAPTER B[~~D~~]. FUNCTIONS OF DEPARTMENT

Sec. 2.01 [~~4.01~~]. HEALTH PLANNING AND DEVELOPMENT AGENCY. The department is designated as the state health planning and development agency for the State of Texas.

Sec. 2.02 [~~4.02~~]. GENERAL POWERS AND FUNCTIONS. (a) The department shall, in accordance with rules and regulations promulgated by the [~~statewide health coordinating~~] council, conduct the following duties:

(1) preparing, reviewing, and revising the preliminary state health plan for submission to the [~~statewide health coordinating~~] council;

(2) collecting and disseminating data necessary to support specific state health plan goals; and (3) assisting the [~~statewide health coordinating~~] council in the performance of its functions and duties.

(b) The department shall perform the duties and functions prescribed by state and federal law regarding the development of the state health plan after consultation with the Texas Department of Mental Health and Mental Retardation, the Texas Department of Human Services [~~Resources~~], and other appropriate health-related state agencies as designated by the governor.

(c) The department may set and charge fees relating to public health planning, data, and statistical services.

Sec. 2.03 [~~4.03~~]. COLLECTION OF DATA. (a) The department shall adopt rules establishing reasonable procedures for the collection of data from facilities as defined by this Act and for the dissemination of data determined to be necessary to facilitate and expedite proper and effective health planning and resource development.

(b) The rules must specify what type of data are required, the entities that are required to submit the data, and the period during which the data must be submitted.

(c) The department shall file, index, and periodically publish in a coherent manner summaries or analyses of the data collected.

(d) If the department does not receive the data as required by the rules, the department shall notify the entity of the problem and shall require the entity to submit the data not later than 30 days after the entity receives the notification.

(e) An entity that does not timely submit the data after notification under Subsection (d) of this section is subject to a civil penalty of not more than \$500 for each day the entity fails to submit the data. At the request of the commissioner of health, the attorney general shall institute and conduct a suit in the name of the state to recover the civil penalty.

(f) All data received by the department under this section that contain information identifying specific patients are confidential and may not be released unless the information identifying the patient is removed from the data.

Sec. 2.04 [~~4.04~~]. TEXAS HEALTH POLICY [~~STATEWIDE HEALTH COORDINATING~~] COUNCIL. (a) The Texas Health Policy Council [~~statewide health coordinating council~~] is appointed by the governor in accordance with the requirements of applicable federal law. The council must include health care providers. At least one-third of the council's members must be health care consumers. The members serve staggered two-year terms.

(b) The governor may appoint the chairman of the council. The members may elect a chairman by majority vote if the governor does not appoint the chairman.

(c) The [~~statewide health coordinating~~] council shall:

(1) provide guidance to the department in developing the state health plan;

(2) adopt ~~[approve]~~ the state health plan for submission to the governor in accordance with applicable federal law; and

(3) promote and direct the implementation of the state health plan's recommendations.

~~[(c) The statewide health coordinating council may establish and charge fees related to public health planning, data, and statistical services.]~~

(d) The ~~[statewide health coordinating]~~ council shall adopt rules in accordance with the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes) detailing the processes used to accomplish its functions.

Sec. 2.05 ~~[4.05]~~. STATE HEALTH PLAN. (a) The state health plan must be developed and used in accordance with applicable state and federal law and shall identify:

- (1) major statewide health concerns;
- (2) the availability and use of current health resources of the state; and
- (3) the future health service and facility needs of the state.

(b) The state health plan must:

(1) propose strategies for the correction of major deficiencies in the service delivery system; and

(2) provide direction for the state's legislative and executive decision-making processes to implement the strategies proposed by the plan.

(c) Information needed for the development of the state health plan shall be gathered through systematic methods designed to include local, regional, and statewide perspectives.

(d) Regional perspectives must be provided through regional health planning advisory committees established by councils of government or regional planning commissions. The state health plan must specifically address the regional perspectives.

~~(e) The [statewide health coordinating] council, through consultation with the health and human services coordinating council, shall generate overall directives for the development of the state health plan.~~

~~(f) [(e)] The department shall submit the preliminary state health plan to the [statewide health coordinating] council for adoption [approval].~~

~~(g) The [(f) Before submitting the state health plan to the governor for adoption, the statewide health coordinating] council shall submit the state health plan to the health and human services coordinating council for review and comment.~~

(h) [g] The ~~[statewide health coordinating]~~ council shall submit the state health plan to the governor for approval ~~[adoption]~~ not later than November 1 of each even-numbered year.

Sec. 2.06 ~~[4.06]~~. COST DATA. (a) Any state agency directly affected by a recommendation in the state health plan shall submit cost data concerning implementation of the recommendation to the department and the ~~[statewide health coordinating]~~ council and shall indicate whether the agency is requesting funds in a manner consistent with the state health plan's recommendations. If the agency is not requesting funds consistent with the state health plan's recommendations, the agency shall submit an explanation and justification of any deviations.

(b) The department shall submit information received under this section to the Legislative Budget Board and the governor's budget office not later than November 1 of each even-numbered year. The submission is in addition to any other fiscal reporting requirements imposed on the department.

Sec. 2.07 ~~[4.07. ASSISTANCE UNDER TITLE XVI. No application for assistance under Title XVI of the Public Health Service Act may be considered by~~

the department until the requirements of Subchapters B and C of this Act have been complied with.

[Sec. 4.08] **CONTRACTS.** With the approval of the governor and after a public hearing, the department may contract with an appropriate state agency to perform specific state health planning and development agency functions of the department.

SECTION 9. Section 6.04, Texas Health Planning and Development Act (Article 4418h, Vernon's Texas Civil Statutes), is repealed.

The amendment was read and was adopted viva voce vote.

Senator Uribe offered Floor Amendment No. 3 to Floor Amendment No. 1.

On motion of Senator Uribe and by unanimous consent, the amendment was withdrawn.

Question recurring on the adoption of Floor Amendment No. 1 as amended, the amendment as amended was adopted viva voce vote.

On motion of Senator Brooks and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading viva voce vote.

COMMITTEE SUBSTITUTE HOUSE BILL 2473 ON THIRD READING

Senator Brooks moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **C.S.H.B. 2473** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed viva voce vote.

MESSAGE FROM THE HOUSE

House Chamber
May 27, 1989

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

S.B. 510, Relating to the application of the Neighborhood Nuisance Abatement Act. (As amended)

S.B. 1718, Relating to the development of a State plan that relates to the current and future needs of the children of the State. (As amended)

S.B. 253, Relating to eligibility for participation in the Texas State College and University Employees Uniform Insurance Benefits Act. (As amended)

S.B. 1519, Relating to State, regional and local solid waste management plans and to the implementation of those plans through municipal solid waste planning regions. (As substituted and amended)

S.B. 1205, Relating to the designation and operation of enterprise zones; providing for certain tax refunds. (As substituted and amended)

S.B. 1813, Relating to the purchase, construction and operation of buildings by the State. (As amended)

S.B. 1212, Relating to the creation, administration and operation of underground water conservation districts. (As amended)

S.B. 156, Relating to certain annuities based on service credited in the elected class of membership of the Employees Retirement System of Texas. (As amended)

S.B. 332, Relating to the training and criminal history checks of employees of certain facilities that provide services to the elderly or disabled and that are licensed by the Texas Department of Health; providing a penalty. (As substituted)

S.B. 1807, Relating to the powers of a housing authority, including its power to issue and secure bonds. (As amended)

S.B. 912, Relating to insurance or collateralization requirements for funds maintained by State agencies outside the treasury; providing penalties. (As amended)

S.B. 365, Relating to a source of financing for the State Pension Review Board and to the duties of the board. (As amended)

S.B. 1154, Relating to the offense of injury to a child, elderly individual or invalid individual. (As amended)

S.B. 482, Relating to the establishment of an options for independent living program by the Texas Department on Aging. (As substituted and amended)

S.B. 419, Relating to the supplemental compensation paid a district judge in certain counties. (As amended)

S.B. 1694, Relating to crime control districts in certain counties; authorizing certain taxes; prohibiting the issuance of bonds other than performance and payment bonds; and granting the power of eminent domain. (As amended)

S.B. 935, Relating to the management and operation of certain municipally owned utilities, including the power to issue bonds and the power of eminent domain.

S.B. 1001, Relating to identification of bank facilities.

S.B. 1775, Relating to real estate transactions involving State-owned real property by the asset management division of the General Land Office.

S.B. 1674, Relating to the regulation of facilities that treat chemically dependent persons.

S.B. 870, Relating to plans regarding the methods by which State agencies satisfy their needs for space.

S.C.R. 50, Requesting that certain federal funds be made available for single parents and homemakers programs at the secondary level.

S.C.R. 117, Directing the Texas Department of Health to make available data on the costs associated with the most common diagnostic categories among older citizens.

S.C.R. 165, Granting E. H. Brainard II, and others permission to sue the State of Texas. (As amended)

H.C.R. 165, Requesting certain agencies to implement a public information program regarding the salute to the Texas flag.

H.C.R. 204, Affirming that the Tenth Amendment to the U.S. Constitution is an operational force governing the powers of the states and the federal government.

The House has adopted the Conference Committee Reports on the following bills by non-record votes:

S.B. 843
S.B. 1525

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 222 ADOPTED**

Senator Caperton called from the President's table the Conference Committee Report on **S.B. 222**. (The Conference Committee Report having been filed with the Senate and read on Friday, May 26, 1989.)

On motion of Senator Caperton, the Conference Committee Report was adopted viva voce vote.

MESSAGE FROM THE HOUSE

House Chamber
May 27, 1989

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

S.B. 541, Relating to analysis of projects financed with bonds issued by the Texas Public Finance Authority. (As amended)

S.B. 1271, Relating to limitation of liability of directors of certain corporations, associations or other organizations.

S.C.R. 160, Honoring John William Turk, Jr.

S.C.R. 174, Honoring Dr. Thomas David Kirksey.

H.C.R. 302, Designating November 3, 1989, as German-American Day in Texas.

The House has refused to concur in Senate amendments to **H.B. 1292** and has requested the appointment of a Conference Committee to consider the differences between the two houses. The following have been appointed on the part of the House: Arnold, Chair; Edge, Uher, Glossbrenner, Watkins.

The House has refused to concur in Senate amendments to **H.B. 1947** and has requested the appointment of a Conference Committee to consider the differences between the two houses. The following have been appointed on the part of the House: Taylor, Chair; Carter, Blackwood, Kubiak, Telford.

The House has refused to concur in Senate amendments to **H.B. 2252** and has requested the appointment of a Conference Committee to consider the differences between the two houses. The following have been appointed on the part of the House: Campbell, Chair; Marchant, D. Smith, Stiles, Fraser.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

SENATE RULE 7.22(b) SUSPENDED

On motion of Senator Henderson and by unanimous consent, Senate Rule 7.22(b) was suspended as it relates to the House amendments to S.B. 740.

SENATE BILL 740 WITH HOUSE AMENDMENTS

Senator Henderson called S.B. 740 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Committee Amendment - Cain

SECTION 1. Section 3.03, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 3.03. The commission shall purchase all motor vehicles used for transporting school children, including buses, bus chassis, and bus bodies, tires, and tubes, for school districts participating in the Foundation School Program as provided by Subchapter F, Chapter 21, Texas Education Code. All purchases must comply with the alternative fuels requirements specified by Subchapter F, Chapter 21, Texas Education Code.

SECTION 2. Section 21.174, Education Code, is amended by adding Subsections (c), (d), (e), and (f) to read as follows:

(c)(1) Except as provided in Subsection (4), no county or local district school board may purchase or lease or authorize the purchase or lease after September 1, 1991, of any motor vehicle used for transporting school children for any county or local school district operating more than 50 such vehicles unless that vehicle is capable of using compressed natural gas or other alternative fuels which result in comparably lower emissions of oxides of nitrogen, volatile organic compounds, carbon monoxide, or particulates or any combination thereof.

(2) A county or local district school board may acquire or be provided equipment or refueling facilities necessary to operate such vehicles using compressed natural gas or other alternative fuels:

A) by purchase or lease as authorized by law;

B) by gift or loan of the equipment or facilities; or

C) by gift or loan of the equipment or facilities or other arrangement pursuant to a service contract for the supply of compressed natural gas or other alternative fuels.

(3) If such equipment or facilities are donated, loaned, or provided through other arrangement with the supplier of compressed natural gas or other alternative fuels, the supplier shall be entitled to recoup its actual cost of donating, loaning, or providing the equipment or facilities through its fuel charges under the supply contract.

(4) State Purchasing and General Services Commission shall waive the requirements of this act for any school district if the county or local school district board certifies to the commission that:

A) the county or district's vehicles will be operating primarily in an area in which neither the county or district nor a supplier has, or can reasonably be expected to establish, a central refueling station for compressed natural gas or other alternative fuels, or

B) the county or district is unable to acquire or be provided equipment or refueling facilities necessary to operate vehicles using compressed natural gas or other alternative fuels pursuant to Subsection (c)(2) of this section at a projected cost that is reasonably expected to result in no greater net costs than the continued use of traditional gasoline or diesel fuels measured over the expected useful life of the equipment or facilities supplied.

(d)(1) Any county or local district school board which operates a fleet of more than 50 motor vehicles used for transporting school children shall achieve the following percentages of such vehicles capable of using compressed natural gas or other alternative fuels by the times specified:

(A) The percentage shall be equal to or greater than 30 percent of the number of such vehicles operated by September 1, 1994; and

(B) Equal to or greater than 50 percent of the number of such vehicles operated by September 1, 1996.

(2) The Texas Air Control Board must review this alternative fuels program by December 31, 1996, and if the Texas Air Control Board determines that the program has been effective in reducing total annual emissions from vehicles in the area, county and local district school boards operating fleets of more than 50 motor vehicles used for transporting school children shall achieve a percentage of such vehicles capable of using compressed natural gas or other alternative fuels equal to or greater than 90 percent of the number of fleet vehicles operating by September 1, 1998, and thereafter.

(3) County and local district school boards shall submit to the Texas Education Agency annual reports summarizing their progress in achieving these percentage requirements and increasing usage of compressed natural gas or other alternative fuels and the Texas Education Agency shall submit the summaries to the Texas Air Control Board by September 1 of each year.

(4) County and local district school boards, the Texas Education Agency and the State Purchasing and General Services Commission shall support the Texas Air Control Board in collecting reasonable information needed to determine air quality benefits from use of alternative fuels in affected districts.

(e) County and local district school boards, the Texas Education Agency, and the State Purchasing and General Services Commission in the development of the compressed natural gas or other alternative fuels use program should work with district fleet operators, vehicle manufacturers and converters, fuel distributors, and others, to delineate the vehicles to be covered, taking into consideration range, specialty uses, fuel availability, vehicle manufacturing and conversion capability, safety, resale values, and other relevant factors. Districts may also meet the percentage requirements of this section through the conversion of existing vehicles, in accordance with federal and state requirements and applicable safety laws, to use such alternative fuels.

(f) The State Purchasing and General Services Commission may reduce any percentage specified or waive the requirements of Subsection (d) for any county or district upon receipt of certification supported by evidence acceptable to the commission that:

1) the county or district's vehicles will be operating primarily in an area in which neither the county or district nor a supplier has, or can reasonably be expected to establish, a central refueling station for compressed natural gas or other alternative fuels, or

2) the county or district is unable to acquire or be provided equipment or refueling facilities necessary to operate vehicles using compressed natural gas or other alternative fuels pursuant to Subsection (c)(2) of this section at a projected cost that is reasonably expected to result in no greater net costs than the continued use of traditional gasoline or diesel fuels measured over the expected useful life of the equipment of facilities supplied.

(g) County and local school boards and the State Purchasing and General Services Commission in purchasing, leasing, maintaining or converting vehicles for compressed natural gas or other alternative fuels use shall comply with all applicable safety standards promulgated by the U.S. Department of Transportation and the Texas Railroad Commission, or their successor agencies.

SECTION 3. Section 21.180 is amended by adding Subsection (c) to read as follows:

(c) All purchases of motor vehicles must comply with the alternative fuels use requirements of Section 21.174.

SECTION 4. Section 21.181(a) is amended by adding Subsection (3) to read as follows:

(a) As an alternative to maintaining and operating a complete public school transportation system under this subchapter, a county or local school board may contract with a public or commercial transportation company or system for all or any part of its public school transportation if the board is able to obtain an economically advantageous contract, provided that the commercial transportation company or system:

(1) requires its school bus drivers to be certified by the Central Education Agency;

(2) uses only those school buses in transporting public school students that satisfy safety requirements imposed by law on school buses operated by public school transportation systems; and

(3) agrees to meet the alternative fuels requirements of Section 21.174 for those buses dedicated to the contract; provided, however, the company or system may claim all exceptions available to county and local district boards under Section 21.174.

SECTION 5. Section 21.182 is amended to read as follows:

(a) As an alternative to purchasing school buses, a county or district school board may contract with any person for use, acquisition, or lease with option or options to purchase any school bus or buses if, at the discretion of the school board, such a contract is determined to be economically advantageous to the school district and complies with the alternative fuels requirements of Section 21.174. Contracts may be in the form of a lease or a lease with option or options to purchase. Contracts in the form of an installment purchase or any form other than a lease or a lease with option or options to purchase shall be subject to the provisions of Section 21.165, as well as rules and regulations of the State Purchasing and General Services Commission.

SECTION 6. Section 14.03 of the State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes) is amended by adding Subsection (c) to read as follows:

(c) The office of vehicle fleet maintenance shall have the authority to take all steps necessary to encourage and facilitate the conversion of and use of motor vehicles which are capable of using alternative fuels, especially compressed natural gas. The office of vehicle maintenance may establish centralized refueling stations throughout the state, may operate regional conversion and repair facilities and may provide all services and support necessary to expedite the utilization of compressed natural gas or other alternative fuels by state agencies and school districts as required by Sections 3.03 and 3.29.

SECTION 7. Section 3.29 of the State Purchasing and General Services Act (Article 601b Vernon's Texas Civil Statutes) is amended by adding Subsections (b), (c), (d) and (e) to read as follows:

(b)(1) A state agency operating a fleet of more than 15 vehicles (excluding law enforcement and emergency vehicles) may not purchase or lease after September 1, 1991, any motor vehicle unless that vehicle is capable of using compressed natural gas or other alternative fuels which result in comparably lower emissions of oxides of nitrogen, volatile organic compounds, carbon monoxide, or particulates or any combination thereof.

(2) A state agency may acquire or be provided equipment or refueling facilities necessary to operate such vehicles using compressed natural gas or other alternative fuels:

A) by purchase or lease as authorized by law;
B) by gift or loan of the equipment or facilities; or
C) by gift or loan of the equipment or facilities or other arrangement pursuant to a service contract for the supply of compressed natural gas or other alternative fuels.

(3) If such equipment or facilities are donated, loaned, or provided through other arrangement with the supplier of compressed natural gas or other alternative fuels, the supplier shall be entitled to recoup its actual cost of donating, loaning, or providing the equipment or facilities through its fuel charges under the supply contract.

(4) The commission may waive the requirements of this subsection for any state agency upon receipt of certification supported by evidence acceptable to the commission that:

A) the agency's vehicles will be operating primarily in an area in which neither the agency nor a supplier has, or can reasonably be expected to establish, a central refueling station for compressed natural gas or other alternative fuels, or

B) the agency is unable to acquire or be provided equipment or refueling facilities necessary to operate vehicles using compressed natural gas or other alternative fuels at a projected cost that is reasonably expected to result in no greater net costs than the continued use of traditional gasoline or diesel fuels measured over the expected useful life of the equipment or facilities supplied.

(c)(1) Any state agency which operates a fleet of more than 15 motor vehicles (excluding law enforcement and emergency vehicles) shall achieve the following percentages of vehicles capable of using compressed natural gas or other alternative fuels by the times specified:

(i) The percentage shall be equal to or greater than 30 percent of the number of fleet vehicles operated by September 1, 1994; and

(ii) Equal to or greater than 50 percent of the number of fleet vehicles operated by September 1, 1996; and

(2) The Texas Air Control Board must review this alternative fuels program by December 31, 1996, and if the Texas Air Control Board determines that the program has been effective in reducing total annual emissions from motor vehicles in the area, state agencies operating fleets of more than 15 motor vehicles shall achieve a percentage of fleet vehicles capable of using compressed natural gas or other alternative fuels equal to or greater than 90 percent of the number of fleet vehicles operated by September 1, 1998, and thereafter.

(3) The commission shall support the Texas Air Control Board in collecting reasonable information needed to determine the air quality benefits from use of alternative fuels at affected agencies.

(4) Each state agency in its annual financial report to the legislature must show its progress in achieving these percentage requirements by itemizing purchases, leases, and conversions of motor vehicles and usage of compressed natural gas or other alternative fuels.

(d) The commission in the development of the compressed natural gas or other alternative fuels use program should work with state agency fleet operators, vehicle manufacturers and converters, fuel distributors, and others, to delineate the vehicles to be covered, taking into consideration range, specialty uses, fuel availability, vehicle manufacturing and conversion capability, safety, resale values, and other relevant factors. State agencies may meet the percentage requirements of this section through purchase of new vehicles or the conversion of existing vehicles, in accordance with federal and state requirements and applicable safety laws, to use such alternative fuels.

(e) The commission may reduce any percentage specified or waive the requirements of Subsection (c) for any state agency upon receipt of certification supported by evidence acceptable to the commission that:

1) the agency's vehicles will be operating primarily in an area in which neither the agency nor a supplier has, or can reasonably be expected to establish, a central refueling station for compressed natural gas or other alternative fuels, or

2) the agency is unable to acquire or be provided equipment or refueling facilities necessary to operate vehicles using compressed natural gas or other alternative fuels at a projected cost that is reasonably expected to result in no greater net costs than the continued use of traditional gasoline or diesel fuels measured over the expected useful life of the equipment of facilities supplied.

(f) The commission in purchasing, leasing, maintaining or converting vehicles for compressed natural gas or other alternative fuels use shall comply with all applicable safety standards promulgated by the U.S. Department of Transportation and the Texas Railroad Commission, or their successor agencies.

SECTION 8. Section 14 of Article 1118x, Vernon's Texas Civil Statutes, is amended by adding Subsections (c), (d), (e), (f) and (g) to read as follows:

(c)(1) The board may not purchase or lease after September 1, 1991, any motor vehicle unless that vehicle is capable of using compressed natural gas or other alternative fuels which result in comparably lower emissions of oxides of nitrogen, volatile organic compounds, carbon monoxide, or particulates or any combination thereof.

(2) The authority may acquire or be provided equipment or refueling facilities necessary to operate such vehicles using compressed natural gas or other alternative fuels:

A) by purchase or lease as authorized by law;

B) by gift or loan of the equipment or facilities; or

C) by gift or loan of the equipment or facilities or other arrangement pursuant to a service contract for the supply of compressed natural gas or other alternative fuels.

(3) If such equipment or facilities are donated, loaned, or provided through other arrangement with the supplier of compressed natural gas or other alternative fuels, the supplier shall be entitled to recoup its actual cost of donating, loaning, or providing the equipment or facilities through its fuel charges under the supply contract.

(4) The board may make exceptions to the requirements of this subsection if the board certifies that:

A) the authority's vehicles will be operating primarily in an area in which neither the authority nor a supplier has, or can reasonably be expected to establish, a central refueling station for compressed natural gas or other alternative fuels, or

B) the authority is unable to acquire or be provided equipment or refueling facilities necessary to operate vehicles using compressed natural gas or other alternative fuels at a projected cost that is reasonably expected to result in no greater net costs than the continued use of traditional gasoline or diesel fuels measured over the expected useful life of the equipment of facilities supplied.

(d)(1) The board shall achieve the following percentages of vehicles capable of using compressed natural gas or other alternative fuels by the times specified:

(i) The percentage shall be equal to or greater than 30 percent of the number of fleet vehicles operated in 1994; and

(ii) Equal to or greater than 50 percent of the number of fleet vehicles operated by September 1, 1996; and

(2) The Texas Air Control Board must review this alternative fuels program by December 31, 1996, and if the Texas Air Control Board determines that the program has been effective in reducing total annual emissions from motor vehicles in the area, the board shall achieve a percentage of fleet vehicles capable of using compressed natural gas or other alternative fuels equal to or greater than

90 percent of the number of fleet vehicles operating by September 1, 1998, and thereafter.

(3) The board must submit to the Texas Air Control Board an annual report by December 31 of each year showing purchases, leases, and conversions of motor vehicles and usage of compressed natural gas or other alternative fuels and any other relevant information the Texas Air Control Board may require.

(e) The board in the development of the compressed natural gas or other alternative fuels use program should work with vehicle manufacturers and converters, fuel distributors, and others, to delineate the vehicles to be covered, taking into consideration range, speciality uses, fuel availability, vehicle manufacturing and conversion capability, safety, resale values, and other relevant factors. The board may meet the percentage requirements of this section through purchase of new vehicles or the conversion of existing vehicles, in accordance with federal and state requirements and applicable safety laws, to use such alternative fuels.

(f) The board in purchasing, leasing, maintaining or converting vehicles for alternative fuels use shall comply with all applicable safety standards promulgated by the United States Department of Transportation and the Texas Railroad Commission or their successor agencies.

(g) The Texas Air Control Board may require reasonable reporting from any board to document the air quality benefits from alternative fuels use programs.

SECTION 9. Section 20 of Article 1118y, Vernon's Texas Civil Statutes is amended by adding Subsections (e), (f), (g), (h), and (i) to read as follows:

(e)(1) An authority may not purchase or lease after September 1, 1991, any motor vehicle unless that vehicle is capable of using compressed natural gas or other alternative fuels which result in comparably lower emissions of oxides of nitrogen, volatile organic compounds, carbon monoxide, or particulates or any combination thereof.

(2) An authority may acquire or be provided equipment or refueling facilities necessary to operate such vehicles using compressed natural gas or other alternative fuels:

A) by purchase or lease as authorized by law;

B) by gift or loan of the equipment or facilities; or

C) by gift or loan of the equipment or facilities or other arrangement pursuant to a service contract for the supply of compressed natural gas or other alternative fuels.

(3) If such equipment or facilities are donated, loaned, or provided through other arrangement with the supplier of compressed natural gas or other alternative fuels, the supplier shall be entitled to recoup its actual cost of donating, loaning, or providing the equipment or facilities through its fuel charges under the supply contract.

(4) An authority may make exceptions to the requirements of this subsection if the authority certifies that:

A) the authority's vehicles will be operating primarily in an area in which neither the authority nor a supplier has, or can reasonably be expected to establish, a central refueling station for compressed natural gas or other alternative fuels, or

B) the authority is unable to acquire or be provided equipment or refueling facilities necessary to operate vehicles using compressed natural gas or other alternative fuels at a projected cost that is reasonably expected to result in no greater net costs than the continued use of traditional gasoline or diesel fuels measured over the expected useful life of the equipment or facilities supplied.

(f)(1) An authority shall achieve the following percentages of vehicles capable of using compressed natural gas or other alternative fuels by the times specified:

(i) The percentage shall be equal to or greater than 30 percent of the number of fleet vehicles operated by September 1, 1994; and

(ii) Equal to or greater than 50 percent of the number of fleet vehicles operated by September 1, 1996; and

(2) The Texas Air Control Board must review this alternative fuels program by December 31, 1996, and if the Texas Air Control Board determines that the program has been effective in reducing total annual emissions from motor vehicles in the area, the authority shall achieve a percentage of fleet vehicles capable of using compressed natural gas or other alternative fuels equal to or greater than 90 percent of the number of fleet vehicles operating by September 1, 1998, and thereafter.

(3) The authority must submit to the Texas Air Control Board an annual report by December 31 of each year showing purchases, leases, and conversions of motor vehicles and use of compressed natural gas or other alternative fuels and any other relevant information the Texas Air Control Board may require.

(g) An authority in the development of the compressed natural gas or other alternative fuels use program should work with vehicle manufacturers and converters, fuel distributors, and others to delineate the vehicles to be covered, taking into consideration range, speciality uses, fuel availability, vehicle manufacturing and conversion capability, safety, resale values and other relevant factors. The authority may meet the percentage requirements of this section through the purchase of new vehicles or the conversion of existing vehicles, in accordance with federal and state requirements and applicable safety laws, to use such alternative fuels.

(h) The authority in purchasing, leasing, maintaining or converting vehicles for compressed natural gas or other alternative fuels use shall comply with all applicable safety standards promulgated by the United States Department of Transportation and the Texas Railroad Commission, or their successor agencies.

(i) The Texas Air Control Board may require reasonable reporting from any authority to document the air quality benefits from alternative fuels use programs.

SECTION 10. Section 6 of Article 1118z, Vernon's Texas Civil Statutes, is amended by adding Subsections (k), (l), (m), (n), and (o) to read as follows:

(k)(1) The department may not purchase or lease after September 1, 1991, any motor vehicle unless that vehicle is capable of using compressed natural gas or other alternative fuels which result in comparably lower emissions of oxides of nitrogen, volatile organic compounds, carbon monoxide, or particulates, or any combination thereof.

(2) The department may acquire or be provided equipment or refueling facilities necessary to operate such vehicles using compressed natural gas or other alternative fuels:

A) by purchase or lease as authorized by law;

B) by gift or loan of the equipment or facilities; or

C) by gift or loan of the equipment or facilities or other arrangement pursuant to a service contract for the supply of compressed natural gas or other alternative fuels.

(3) If such equipment or facilities are donated, loaned, or provided through other arrangement with the supplier of compressed natural gas or other alternative fuels, the supplier shall be entitled to recoup its actual cost of donating, loaning, or providing the equipment or facilities through its fuel charges under the supply contract.

(4) A department may make exceptions to the requirements of this subsection if the department certifies that:

A) the department's vehicles will be operating primarily in an area in which neither the department nor a supplier has, or can reasonably be expected to establish, a central refueling station for compressed natural gas or other alternative fuels, or

B) the department is unable to acquire or be provided equipment or refueling facilities necessary to operate vehicles using compressed natural gas or other alternative fuels at a projected cost that is reasonably expected to result in no greater net costs than the continued use of traditional gasoline or diesel fuels measured over the expected useful life of the equipment of facilities supplied.

(1)(1) A department shall achieve the following percentages of vehicles capable of using compressed natural gas or other alternative fuels by the times specified:

(i) The percentage shall be equal to or greater than 30 percent of the number of fleet vehicles operated by September 1, 1994; and

(ii) Equal to or greater than 50 percent of the number of fleet vehicles operated by September 1, 1996; and

(2) The Texas Air Control Board must review this alternative fuels program by December 31, 1996, and if the Texas Air Control Board determines that the program has been effective in reducing total annual emissions from motor vehicles in the area, departments shall achieve a percentage of fleet vehicles capable of using compressed natural gas or other alternative fuels equal to or greater than 90 percent of the number of fleet vehicles operating by September 1, 1998, and thereafter.

(3) The department must submit to the Texas Air Control Board an annual report by December 31 of each year showing purchases, leases, and conversions of motor vehicles and usage of compressed natural gas or other alternative fuels and any other relevant information the Texas Air Control Board may require.

(m) A department in the development of the compressed natural gas or other alternative fuels use program should work with vehicle manufacturers and converters, fuel distributors, and others, to delineate the vehicles to be covered, taking into consideration range, speciality uses, fuel availability, vehicle manufacturing and conversion capability, safety, resale values, and other relevant factors. Such department may meet the percentage requirements of this section through the purchase of new vehicles or the conversion of existing vehicles, in accordance with federal and state requirements and applicable safety laws, to use such alternative fuels.

(n) A department in purchasing, leasing, maintaining or converting vehicles for alternative fuels use shall comply with all applicable safety standards promulgated by the United States Department of Transportation and the Texas Railroad Commission, or their successor agencies.

(o) The Texas Air Control Board may require reasonable reporting from any department to document the air quality benefits from alternative fuels use programs.

SECTION 11. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Floor Amendment - C. Harris

Amend C.S.S.B. 740 by striking Sections 1 through 5 of the bill and amending Section 6 as follows:

Amend Section 14.03(c), lines 9-10 by striking the words "and school districts as required by Section 3.03 and 3.29" and substituting the words, "as required by Section 3.29."

The amendments were read.

Senator Henderson moved that the Senate do not concur in the House amendments, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on S.B. 740 before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Henderson, Chairman; Caperton, McFarland, Montford and Sims.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1777 ON SECOND READING**

On motion of Senator Washington and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 1777, Relating to punishment for certain offenses concerning tangible property.

The bill was read second time and was passed to third reading viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1777 ON THIRD READING**

Senator Edwards moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that C.S.H.B. 1777 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed viva voce vote.

SENATE BILL 1154 WITH HOUSE AMENDMENTS

Senator Tejeda called S.B. 1154 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Committee Amendment - Alexander

Amend S.B. 1154 in SECTION 1 by inserting a new Paragraph (3) to Subsection (k) of Section 22.04, Penal Code to read as follows:

(3) treatment in accordance with the tenets and practices of a recognized religious method of healing with a generally accepted record of efficacy if:

(A) fees and expenses incurred in connection with such treatment are permitted to be deducted from taxable income as medical expenses pursuant to rules and regulations promulgated by the U.S. Internal Revenue Service; or

(B) fees and expenses incurred in connection with such treatment are generally recognized as reimbursable health care expenses under medial policies of insurance issued by insurers licensed by this state.

Floor Amendment No. 1 on Third Reading - Garcia

Amend S.B. 1154 in SECTION 1 by striking Paragraph (3) of Subsection (k) of Section 22.04, and substituting the following:

(l) Nothing herein shall preclude an actor from raising a defense based on the teachings and practice of a recognized religious faith.

Floor Amendment No. 2 on Third Reading - G. Luna

Amend **S.B. 1154** as follows:

(1) On page 4, between lines 4 and 5, insert the following section:

SECTION 2. Section 29.03, Penal Code, is amended as follows:

(a) A person commits an offense if he commits robbery as defined in Section 29.02 of this code, and he:

(1) causes serious bodily injury to another; or

(2) uses or exhibits a deadly weapon; or

(3) causes bodily injury to another person or threatens or places another person in fear of imminent bodily injury or death, if the other person is:

(A) 65 years of age or older; or

(B) a disabled person.

(c) In this section, "disabled person" means an individual with a mental, physical, or developmental disability who is substantially unable to protect himself from harm.

(2) Renumber subsequent sections.

The amendments were read.

Senator Tejeda moved that the Senate do not concur in the House amendments, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

HOUSE BILL 2644 ON SECOND READING

On motion of Senator Barrientos and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 2644, Relating to the sunset review of the Texas Industrialized Building Code Council.

The bill was read second time and was passed to third reading viva voce vote.

HOUSE BILL 2644 ON THIRD READING

Senator Barrientos moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **H.B. 2644** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed viva voce vote.

HOUSE BILL 2420 ON SECOND READING

On motion of Senator Barrientos and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 2420, Relating to the conveyance of certain state-owned real property in the city of Austin in exchange for certain real property in the city of Austin.

The bill was read second time.

Senator Barrientos offered the following committee amendment to the bill:

Amend **H.B. 2420** by adding a new section to read as follows:

SECTION____(a) The asset management division of the General Land Office is authorized to sell, convey or exchange, all of the interest of the State of Texas in the tract of land described in part (b) including any improvements thereon, possessed by the Texas School for the Blind in Travis County, Texas.

(b) An 18 grave plot, Section 3, No. 753 of the Oakwood Cemetery located at East Martin Luther King Boulevard and Navasota Streets in Austin, Travis County, Texas, which tract is designated on the official map of the Oakwood Cemetery as owned by the State of Texas Blind Asylum.

(c) Before any land is sold under this act, the division shall determine the location of any recorded burials on the tract. No grave plot on which there is a recorded burial may be sold.

(d) The land may not be sold for less than fair market value as determined by an appraisal of the property performed by an appraiser employed by the General Land Office.

(e) The land shall be sold at a sealed bid sale. Notice of the sale shall be published 30 days in advance, in at least three issues of a daily newspaper of general circulation in Travis County. The notice shall state the time and place for the sale and shall indicate where information relating to the land for sale can be obtained. If no acceptable bids are received at the bid sale then the asset management division may solicit offers for the property, provided that no sale may be completed at less than the fair market value of the property.

(f) The land shall be conveyed by a deed executed by the Commissioner of the General Land Office on behalf of the State of Texas and the Texas School for the Blind.

(g) The proceeds of the sale shall be deposited in the capital trust fund subject to appropriation only to the Texas School for the Blind to fund capital improvements at their facilities.

The committee amendment was read and was adopted viva voce vote.

On motion of Senator Barrientos and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading viva voce vote.

HOUSE BILL 2420 ON THIRD READING

Senator Barrientos moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that H.B. 2420 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 2936 ON SECOND READING

On motion of Senator Ratliff and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 2936, Relating to the licensing of liquefied petroleum gas activities.

The bill was read second time and was passed to third reading viva voce vote.

HOUSE BILL 2936 ON THIRD READING

Senator Ratliff moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **H.B. 2936** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed viva voce vote.

HOUSE BILL 579 ON SECOND READING

On motion of Senator Ratliff and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 579, Relating to the creation of the offense of injury to or interference with an animal under the supervision of a peace officer or a department of corrections employee.

The bill was read second time and was passed to third reading viva voce vote.

COMMITTEE SUBSTITUTE**HOUSE BILL 1078 ON SECOND READING**

On motion of Senator Santiesteban and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 1078, Relating to the payment of ad valorem taxes on real property bequeathed to an institution of higher education and on property of certain organizations that support higher education.

The bill was read second time and was passed to third reading viva voce vote.

COMMITTEE SUBSTITUTE**HOUSE BILL 1078 ON THIRD READING**

Senator Santiesteban moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **C.S.H.B. 1078** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 1808 ON SECOND READING

On motion of Senator Santiesteban and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1808, Relating to the regulation of water and sewer utilities; providing administrative and civil penalties.

The bill was read second time.

Senator Barrientos offered the following amendment to the bill:

Amend **H.B. 1808** by adding a new Section 8 at the end of Section 7 on page 15 and renumbering the subsequent sections, Section 8 to read as follows:

SECTION 8. Subchapter C, Chapter 13, Water Code, is amended by adding Section 13.0421 to read as follows:

Sec. 13.0421. RATES CHARGED BY CERTAIN MUNICIPALLY OWNED UTILITIES. (a) This section applies to a municipally owned water and sewer utility that on January 1, 1989, required some or all of its wholesale customers to assess a surcharge for service against residential customers who reside outside the municipality's municipal boundaries.

(b) A municipality may not require a municipal utility district to assess a surcharge against users of water or sewer service prior to the annexation of the municipal utility district.

The amendment was read and was adopted viva voce vote.

On motion of Senator Santiesteban and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading viva voce vote.

HOUSE BILL 1808 ON THIRD READING

Senator Santiesteban moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **H.B. 1808** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed viva voce vote.

COMMITTEE SUBSTITUTE

HOUSE BILL 2494 ON SECOND READING

On motion of Senator Brooks and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 2494, Relating to certain solid waste permit applications, to certain peace officers and their enforcement of and training concerning litter and solid waste disposal regulations, and to establishing a hotline for enforcement purposes.

The bill was read second time and was passed to third reading viva voce vote.

SENATE RULE 7.22(b) SUSPENDED

On motion of Senator Henderson and by unanimous consent, Senate Rule 7.22(b) was suspended as it relates to the House amendments to **S.B. 531**.

SENATE BILL 531 WITH HOUSE AMENDMENTS

Senator Henderson called **S.B. 531** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.
Committee Amendment No. 1 - Schlueter

Amend **S.B. 531** on page 8, line 17, by inserting the words "but not less often than semi-annually" between the word "duties" and the period.

Committee Amendment No. 2 - Schleuter

Amend S.B. 531 on page 18, line 19, by deleting the word "or" and substituting the word "and".

Committee Amendment No. 3 - Schlueter

Amend S.B. 531 on page 19 by striking SECTION 16 and renumbering the following sections accordingly.

Floor Amendment - Thomas, Hollowell

Amend S.B. 531, page 1, line 10 by deleting after the word senate. "All members must be representatives of the general public", and substituting "At least four members must be representatives of the general public, two members may be certified by the Board of Tax Professional Examiners."

Page 1, line 18 and 19, delete subparagraph (1) and renumber succeeding subparagraphs accordingly.

The amendments were read.

Senator Henderson moved that the Senate do not concur in the House amendments, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on S.B. 531 before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Henderson, Chairman; Caperton, Harris, McFarland and Sims.

SENATE RULE 7.22(b) SUSPENDED

On motion of Senator Krier and by unanimous consent, Senate Rule 7.22(b) was suspended as it relates to the House amendments to S.B. 400.

SENATE BILL 400 WITH HOUSE AMENDMENTS

Senator Krier called S.B. 400 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Committee Amendment - S. Thompson

Amend S.B. 400 by striking all below the enacting clause and substituting in lieu thereof the following:

SECTION 1. Sections 42.001, 42.002, 42.003, and 42.004, Property Code, are amended to read as follows:

Sec. 42.001. PERSONAL PROPERTY EXEMPTION. (a) Personal property, as described in Section 42.002, is exempt from garnishment, attachment, execution, or other seizure if:

(1) the property is provided for a family and has an aggregate fair market value of not more than [\$30,000] \$80,000, exclusive of the amount of any liens, security interests, or other charges encumbering the property; or

(2) the property is owned by a single adult, who is not a member of a family, and has an aggregate fair market value of not more than [-\$15,000] \$40,000, exclusive of the amount of any liens, security interests, or other charges

encumbering the property [Eligible personal property that is owned by a family and that has an aggregate fair market value of not more than \$30,000 is exempt from attachment, execution, and seizure for the satisfaction of debts, except for encumbrances properly fixed on the property].

(b) The following personal property is exempt from seizure and is not included in the aggregate limitations prescribed by Subsection (a):

(1) unpaid income and commissions for personal services, except for the enforcement of court-ordered child support payment;

(2) professionally prescribed health aids of a debtor or a dependent of a debtor;

(3) a right to the assets held in or to receive payments, whether vested or not, under stock bonus plans, pension plans, profit sharing plans, retirement annuities, or similar plans or contracts, including retirement plans for self-employed individuals, or under individual retirement accounts or individual retirement annuities, including simplified employee pension plans, if the plans, contracts, or accounts qualify under the applicable provisions of the Internal Revenue Code of 1986; provided, however, that a right to contributions to individual retirement accounts that exceeded, at the time of contribution, the amount deductible under the applicable provisions of the Internal Revenue Code of 1986, including the accrued earnings on the excess contributions, is exempt only if it is exempt under other law;

(4) a right to the assets held in or to receive payments, whether vested or not, under government or church plans or contracts as defined in the Internal Revenue Code of 1986;

(5) proceeds of any life, health, or accident insurance or annuity policy paid to a member of the family of an insured person or a dependent of a single adult;

(6) tools, equipment, books, and apparatus used in a trade or profession; and

(7) funds exempt from seizure by creditors under other state or federal non-bankruptcy law [Eligible personal property that is owned by a single adult who is not a member of a family and that has an aggregate fair market value of not more than \$15,000 is exempt from attachment, execution, and seizure for the satisfaction of debts, except for encumbrances properly fixed on the property].

(c) This section does not prevent seizure by a secured creditor holding an express and valid security interest in the property to be seized [The exemption provided in this section does not apply to a debt that is secured by a lien on the property or that is due for rents or advances from a landlord to the landlord's tenant].

Sec. 42.002. PERSONAL PROPERTY [ELIGIBLE FOR EXEMPTION].

(a) The following personal property is [eligible for the] exempt[ion] under Section 42.001(a):

(1) home furnishings, including family heirlooms;

(2) provisions for consumption;

(3) [if reasonably necessary for the family or single adult:

[~~(A)~~] farming or ranching vehicles and implements;

(4) [~~(B)~~] tools, equipment, books, and apparatus, including a] boats, motor vehicles, and airplanes used in a trade or profession;

(5) wearing apparel, including jewelry [~~(C)~~] clothing];

(6) [~~(D)~~] two firearms; [and]

(7) [~~(E)~~] athletic and sporting equipment, including a bicycle;

(8) a two-wheeled, three-wheeled, or four-wheeled motor vehicle for each member of a family or single adult who holds a driver's license or who does not hold a driver's license but who relies on another person to operate the vehicle

for the benefit of the nonlicensed person [(4) if not held or used for production of income, passenger cars and light trucks as defined by Section 2, Uniform Act Regulating Traffic on Highways, as amended (Article 6701d, Vernon's Texas Civil Statutes), or, whether or not held for the production of income, two of the following categories of means of travel:

and bridle for each: [(A) two animals from the following kinds with a saddle

[(i) horses;

[(ii) colts;

[(iii) mules; and

[(iv) donkeys;

[(B) a bicycle or motorcycle;

[(C) a wagon, cart, or dray, with reasonably necessary

harness;

[(D) an automobile;

[(E) a truck cab;

[(F) a truck trailer;

[(G) a camper truck;

[(H) a truck; and

[(I) a pickup truck];

(9) [(5)] the following animals and forage on hand [reasonably necessary] for their consumption:

(A) two horses, mules, or donkeys and a saddle, blanket, and bridle for each [5 cows and their calves];

(B) 12 head of cattle [1 breeding-age bull];

(C) 60 head of other types of livestock [20 each of hogs, sheep, and goats]; and

(D) 120 fowl [50 chickens; and

[(E) 30 each of turkeys, ducks, geese, and guineas];

(10) [(6)] household pets; and

(11) [(7)] the present [cash surrender] value of any life insurance policy or annuity policy [in force for more than two years] to the extent that a member of the insured person's family or a dependent of a [the] single adult [person] claiming the exemption is a beneficiary of the policy; and

[(8) current wages for personal services].

(b) Personal property, unless precluded from being encumbered by other law, may be encumbered by a security interest under Section 9.203, Business & Commerce Code, or Sections 41 and 42, Certificate of Title Act (Article 6687-1, Vernon's Texas Civil Statutes), or by a lien fixed by other law.

Sec. 42.003. DESIGNATION OF EXEMPT PROPERTY. (a) If a debtor owns more of a type of personal property than the number or amount allowed for exemption under Section 42.002 and the debtor can be found in the county where the property is located, the officer making a levy on the property shall ask the debtor to designate the personal property to be levied on. If the debtor cannot be found in the county or the debtor fails to make a designation within a reasonable time after the officer's request, the officer shall make the designation [family or a single adult who is not a member of a family owns more of a kind of personal property than is eligible for exemption, the head of the family or the single adult may designate the portion of that kind of property to be levied on].

(b) If the aggregate value of a debtor's eligible personal property exceeds the amount exempt from seizure under Section 42.001(a), the debtor may designate the portion of the property to be levied on. If the debtor fails to make a designation within a reasonable time after a court's request or a creditor contests the debtor's assertion for any reason that the property is exempt, the court shall make the

designation [a defendant in execution can be found in the county, the officer holding the execution shall ask the head of the family or the single adult to designate the personal property to be levied on. If the defendant cannot be found in the county or if the proper person fails to make a designation within a reasonable time after the officer's request, the officer may make the designation].

Sec. 42.004. TRANSFER OF NONEXEMPT PROPERTY. (a) If a person uses property not exempt under this chapter to acquire ~~[eligible]~~ personal property or an interest in ~~[eligible]~~ personal property or to make improvements or pay indebtedness on ~~[eligible]~~ personal property that would be exempt under this chapter with the intent to defraud, delay, or hinder an interested person from obtaining that to which the interested person is or may be entitled, the property, interest, or improvement acquired is not exempt from seizure for the satisfaction of liabilities. If the property, interest, or improvement is acquired by discharging an encumbrance held by a third person, a person defrauded, delayed, or hindered is subrogated to the rights of the third person.

(b) A creditor may not assert a claim under this section more than ~~two~~ ~~[four]~~ years after the transaction from which the claim arises. A person with a claim that is unliquidated or contingent at the time of the transaction may not assert a claim under this section more than one year after the claim is reduced to judgment.

SECTION 2. Section 42.0021, Property Code, is repealed.

SECTION 3. The changes in law made by this Act do not apply to property that is, as of the effective date of this Act, subject to a voluntary bankruptcy proceeding or to valid claims of a holder of a final judgment who has, by levy, garnishment, or other legal process, obtained rights superior to those that otherwise would be held by a trustee in bankruptcy if a bankruptcy petition were then pending against the debtor. That property is subject to the law as it existed immediately before the effective date of this Act, and the prior law is continued in effect for that purpose.

SECTION 4. This Act takes effect September 1, 1989.

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Floor Amendment on Third Reading - Perez

Amend C.S.S.B. 400 in Section 1 of the bill by striking Section 42.001(b)(5), Property Code, as added and substituting the following:

(5) proceeds of any health or accident insurance policy and the death benefits of any life insurance policy paid to a member of the family of an insured person or a dependent of a single adult;

The amendments were read.

Senator Krier moved that the Senate do not concur in the House amendments, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on S.B. 400 before appointment.

There were no motions offered.

On motion of Senator Krier and by unanimous consent, Senate Rule 12.01 was suspended to allow Senator Bivins to act as Chairman of the Conference Committee appointed on S.B. 400.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Bivins, Chairman; Krier, Henderson, Glasgow and Ratliff.

**CONFERENCE COMMITTEE APPOINTED
ON SENATE BILL 1154**

The President asked if there were any motions to instruct the Conference Committee on **S.B. 1154** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Tejeda, Chairman; Santiesteban, Dickson, Barrientos and Krier.

**CONFERENCE COMMITTEE REPORT
HOUSE BILL 1588**

Senator McFarland submitted the following Conference Committee Report:

Austin, Texas
May 27, 1989

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 1588** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

McFARLAND
SIMS
MONTFORD
BROWN
BIVINS

On the part of the Senate

SCHLUETER
SAUNDERS
HIGHTOWER
HARRISON
STILES

On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT
HOUSE BILL 1193**

Senator Washington submitted the following Conference Committee Report:

Austin, Texas
May 27, 1989

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis

Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on H.B. 1193 have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

WASHINGTON
PARMER
JOHNSON
WHITMIRE

VALIGURA
PLUMBO
KUEMPEL
PARK
LUCIO

On the part of the Senate

On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT
HOUSE BILL 2721**

Senator Sims submitted the following Conference Committee Report:

Austin, Texas
May 27, 1989

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on H.B. 2721 have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

SIMS
LEEDOM
McFARLAND
CAPERTON
RATLIFF

WILLIAMSON
LANEY
SWIFT
MARCHANT
LUCIO

On the part of the Senate

On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

**NOTICE OF SESSION TO HOLD
LOCAL AND UNCONTESTED BILLS CALENDAR**

On motion of Senator Sims and by unanimous consent, Senate Rule 9.03(b) was suspended.

Senator Sims announced that a Local and Uncontested Bills Calendar had been placed on the Members' desks and gave notice that a Local and Uncontested Bills Calendar would be held at 9:00 a.m. tomorrow and that all bills would be considered on second reading in the order in which they are listed.

BILLS SIGNED

The President announced the signing in the presence of the Senate, after the captions had been read, the following enrolled bills:

H.B. 4	H.B. 1325
H.B. 101	H.B. 1333
H.B. 243	H.B. 1392
H.B. 248	H.B. 1587
H.B. 302	H.B. 1701
H.B. 507	H.B. 1879
H.B. 581	H.B. 1941
H.B. 715	H.B. 1960
H.B. 842	H.B. 2037
H.B. 857	H.B. 2165
H.B. 862	H.B. 2277
H.B. 959	H.B. 2884
H.B. 1022	H.B. 2972
H.B. 1101	H.B. 3032
H.B. 1239	H.B. 3080

RECESS

On motion of Senator Brooks, the Senate at 5:04 p.m. took recess until 9:00 a.m. tomorrow.

CONGRATULATORY RESOLUTION

S.R. 769 - By Brooks: Extending congratulations to Ralph E. Frede for his exceptional contributions to Baylor College of Medicine.

APPENDIX

Signed by Governor
(May 26, 1989)

H.B. 580 (Effective August 28, 1989)
H.B. 1301 (Effective December 31, 1990)
H.B. 2095 (Effective immediately)
H.B. 2551 (Effective immediately)
S.B. 1 (Effective immediately)
S.B. 47 (Effective September 1, 1989)
S.B. 92 (Effective immediately)
S.B. 175 (Effective immediately)
S.B. 244 (Effective September 1, 1989)
S.B. 276 (Effective July 1, 1989)
S.B. 320 (Effective August 28, 1989)
S.B. 334 (Effective August 28, 1989)
S.B. 361 (Effective August 28, 1989)
S.B. 378 (Effective September 1, 1989)
S.B. 402 (Effective August 28, 1989)
S.B. 440 (Effective immediately)
S.B. 480 (Effective immediately)
S.B. 514 (Effective September 1, 1989)
S.B. 549 (Effective August 28, 1989)
S.B. 583 (Effective September 1, 1989)
S.B. 631 (Effective August 28, 1989)
S.B. 647 (Effective September 1, 1989)

S.B. 691 (Effective immediately)
S.B. 713 (Effective immediately)
S.B. 717 (Effective immediately)
S.B. 742 (Effective September 1, 1989)
S.B. 759 (Effective September 1, 1989)
S.B. 846 (Effective August 28, 1989)
S.B. 873 (Effective August 28, 1989)
S.B. 897 (Effective September 1, 1990)
S.B. 907 (Effective upon passage of S.J.R. 34)
S.B. 984 (Effective September 1, 1989)
S.B. 1010 (Effective September 1, 1989)
S.B. 1015 (Effective September 1, 1989)
S.B. 1021 (Effective September 1, 1989)
S.B. 1032 (Effective August 28, 1989)
S.B. 1044 (Effective September 1, 1989)
S.B. 1081 (Effective immediately)
S.B. 1102 (Effective immediately)
S.B. 1388 (Effective immediately)
S.B. 1407 (Effective September 1, 1989)
S.B. 1427 (Effective August 28, 1989)
S.B. 1558 (Effective September 1, 1989)
S.B. 1587 (Effective September 1, 1989)
S.B. 1672 (Effective immediately)
S.B. 1710 (Effective immediately)

SEVENTY-FIFTH DAY

(Continued)

(Sunday, May 28, 1989)

AFTER RECESS

The Senate met at 9:00 a.m. and was called to order by Senator Ratliff.

MESSAGE FROM THE HOUSE

House Chamber
May 28, 1989

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

The House has refused to concur in Senate amendments to **H.B. 983** and has requested the appointment of a Conference Committee to consider the differences between the two houses. The following have been appointed on the part of the House: Grusendorf, Chair; Berlanga, Hammond, Arnold, G. Luna.

The House has refused to concur in Senate amendments to **H.B. 1023** and has requested the appointment of a Conference Committee to consider the differences between the two houses. The following have been appointed on the part of the House: Wolens, Chair; R. Cuellar, Edge, Dutton, Connelly.